MIXING ORDERED AT GOLF COURSE

But Damages Denied in Mobile Suit

MOBILE, Ala. (AP) A federal judge Monday ordered the Mobile municipal golf course opened to Negro players.

U. S. Dist. Judge Daniel H. Thomas denied, however, a petition by three Negroes for $5000 damages each.

The judge heard arguments on the case in January, 1960, and gave opposing attorneys additional time to submit briefs. City Atty. Fred G. Collins stipulated at the hearing that the course was for use by white players only.

Three Mobile Negroes sued in 1958, charging they were denied permission to play on the city course solely because of their race. Defendants were the city of Mobile, the three city commissioners and Tom Klumpp, golf pro at the course.

Thomas Monday dismissed the action against Klumpp on grounds the evidence failed to substantiate the charge against him.

The three plaintiffs testified they were refused permission to play on the public links Feb. 24, 1958. They are John H. Sawyer, Samuel L. Andrews and Charles S. Goodman.

The three said they were forced to go to Pensacola, Fla., 60 miles to the east, or to New Orleans, 150 miles to the west, in order to play golf.

The golf course suit is one of three integration actions filed in U. S. district court in Mobile. Others seek integration of a state vocational training school here and elimination of segregated seating on public buses.

South Sider, 29, Awarded $175,000

A Circuit court jury of eight women and four men Tuesday returned a sealed verdict awarding damages totaling $225,100 to three victims in an auto collision on Nov. 6, 1958, which was fatal to two persons and injured seven others.

The most seriously injured, Archie Mason, 29, of 6232 Ingleside ave., was awarded $175,000 damages by the jury sitting in the courtroom of Judge John J. Lupe.

ARCHIE MASON

In the collision which occurred at 93rd st., and Western ave., Mason suffreed fractures of both legs, a fractured right hand and osteomyelitis of the right thigh which required eight operations that did not improve his condition, Mason's physicians testified.

The jury also awarded $46,600 in damages to Charles Lavacek, 66, of 412 Leitch, La Grange, and $3,500 damages to George Miller, 50, of 3112 W. Fullerton.

Fatally injured in the crash were George O'Rourk, driver of a vehicle involved in the four-car collision, and Henry Lewis, of 4243 Grenshaw st.

Other victims who substained minor injuries were Joe Guy, 9530 South Park ave., and Daniel Jones, 46, 3601 Ellis ave.

Named defendant in the huge suit was the Arrow Contractors Equipment co., 4646 S. Kedzie ave. O'Rourk was the driver of the company's vehicle.

According to testimony, Miller was driving south on Western ave. As he approached 93rd st., witnesses and police said, O'Rourk, a salesman crossed the center line and struck an alto driven by Henry Lewis head-on, causing him to strike an auto driven by Lennie Walker, 3601 Ellis ave., and then O'Rourk's vehicle struck Miller's auto causing serious injuries to Lavacek, his passenger.

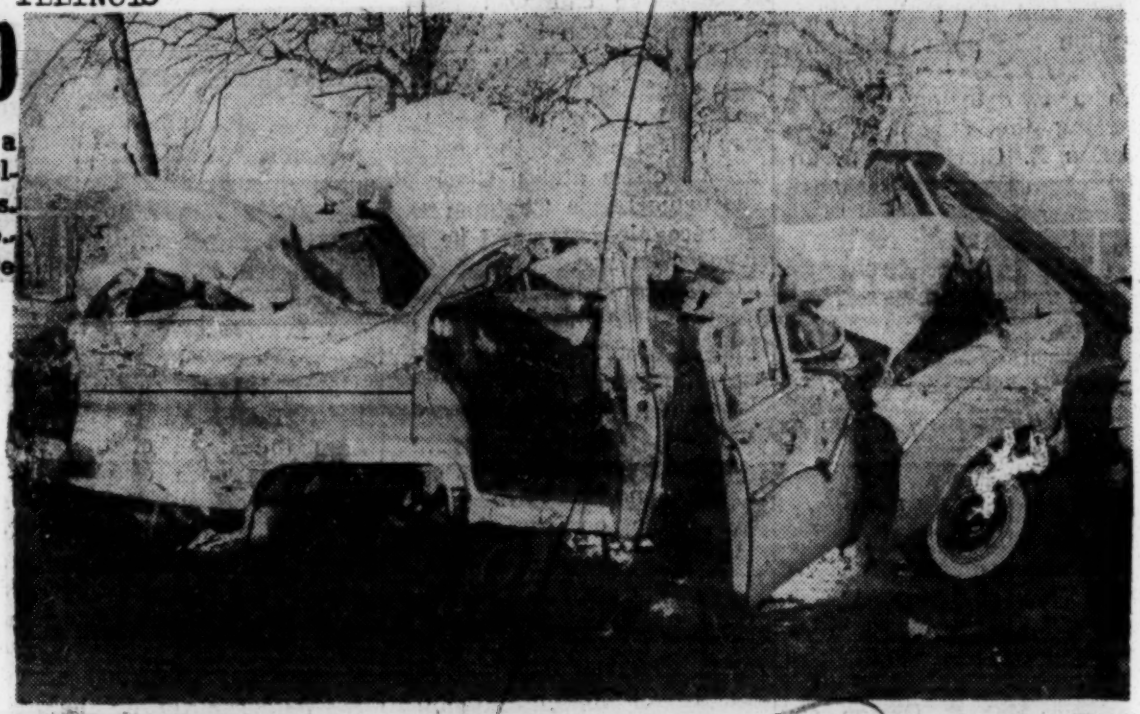
Th einjured were taken to hospitals and O'Rourk was arrested on charges of reckless driving and driving on the wrong side of the street. He died later in the hospital.

Mason, Lavacek and Miller filed their action through their attorneys, Nat P. Ozmon and Philip Corby. Lavacek suffered a severe back injury and Miller's neck and right ankle were injured.

At the time of the accident Mason was riding in the back of the auto driven by Lewis who died later in a hospital. Force of the impact threw Mason out of the car and under it.

Dr. Charles Scudera, an orthopedic surgeon, testified i may take 10 years for Mason's condition to clear up. Before the accident Mason was a coremaker.

"He is in bad trouble. His condition is permanent, He is unable to engage in any gainful occupation," Dr. Scudera testified.



DEATH CAR in which Henry Lewis was fatally injured on Nov. 6, 1958, is also auto in which Archie Mason, 29, of 6232 Ingleside ave., was riding when thrown out and under vehicle. Mason, who suffered multiple and permanent injuries, was awarded $175,000 in damages by a Circuit court jury last Tuesday. Two persons were killed and seven others injured in the four-car collision.

Boy, 3, Died; Mother Burned

Chicago Defender P.1
Oct 21-27 1961

By J. BLAINE POINDEXTER

As a result of a gas explosion and fire which took the life of a three-year-old boy and seriously burned the mother as she fled through the flames with her son in her arms, a Circuit Court jury this week awarded the mother $180,000 in damages.

Defendants in the suit were the Peoples Gas company and the Land Clearance Commission and the J and K Wrecking company. The case was heard in Judge L. L. Winn's courtroom. The complainant was Mrs. Mabel Peterson. Attys. Robert J. Cooney and Irving Stenn, jr.

Chicago Def

The accident occurred March 10, 1959 at 2929 S. Michigan ave. According to testimony of witnesses during the ten days trial, the Land Clearance Commission hired the J. and K. Wrecking company to demolish the building at 2933 Michigan where escaping gas was discovered.

The gas seeped underground to the building at 2929 Michigan where Mrs. Peterson resided, it was stated.

Gas company workmen were trying to find the source of the leak when the explosion and fire enveloped the building.

Mrs. Peterson, 30, seized her son and fled through the flames, her clothing on fire. Her face and arms were so badly burned that numerous skin graft operations had to be performed. Her son died a few days later.

The Gas company settled with Mrs. Peterson for $120,000. The jury awarded her $30,000 from the Land Clearance Commission, $20,000 more from the Gas company and $10,000 from the wrecking company for the death of her son.

The American National Bank & Trust company was named administrator of the estate. Owner of the building, Anno V. Skorsko, was dismissed from the suit. Mrs. Peterson was represented by

FIVE NEGROES SUE TO END SCHOOL AID

The Wash. Times

'Patience Exhausted,' They Bid U. S. Stop Funds to Segregated Institutions

New York

WASHINGTON, Feb. 14 (UPI)—Five Virginia Negroes, declaring their patience exhausted, asked the Federal District Court today to bar President Kennedy and officials from granting Federal aid to segregated schools.

WSC 2-15-61

The five, including a co-ed in jail for having taken part in a sit-in demonstration, filed a suit seeking a cut-off of funds to any institution engaged "in the nauseating practices of racial segregation by virtue of statute, ordinance, regulation, custom or usage."

Kid

Besides the President, those named as defendants were Abraham A. Ribicoff, Secretary of Health, Education and Welfare; Treasury Secretary Douglas Dillon and Treasurer Elizabeth R. Smith. The suit said they were the officials charged with carrying out the aid program.

In their brief, the plaintiffs paraphrased a section of the President's Inaugural Address.

"We come to this court not seeking anything that our country can do for us," they said. "Through this suit, we seek to do something for our country. If we are correct, a new horizon of morality will be open for the new frontier that our country faces."

The suit was filed by Joseph A. Jordan Jr., Edward A. Dawley Jr. and Leonard W. Holt Jr., all lawyers of Norfolk, Va.; John A. Golden Jr., a stockman at the naval supply center in Norfolk, and Barbara Thomas.

Miss Thomas, a student at Virginia Theological Seminary College, is serving a thirty-day sentence in the city jail at Lynchburg , Va., for having joined five students in a sit-in.

The suit asked the court to issue injunctions to halt the distribution of $40,000,000 that the Negroes estimated went each year to segregated schools. It asked that a three-judge District Court be convened immediately and order a speedy hearing.

United Press International Telephoto

SUIT NAMES PRESIDENT: Leonard W. Bolt Jr., left, and John A. Golden Jr. outsie Federal District Court in Washington yesterday. They and three others filed suit asking for ban on Federal aid to segregated schools. Among defendants named in suit was President Kennedy.

It said Mr. Kennedy and the other officials were awer of the "open and notorious refusal of most Southern institutions to accept the "law of the land and have, on several occasions, publicly declared opposition to such defiance within the South."

"The patience of almost 100 years is not inexhaustible," the plaintiffs said. "It is exhausted."

"Our frustration will no longer permit us to tap at the doors of a multitude of instances and institutions which deny us justice and human dignity. We now bank at the front door of the legal summit."

The aim of the suit was similar to a recent recommendation by the Federal Civil Rights Commission, which suggested that the Government exclude segregated schools from its aid-to-education programs.

Negroes File Suit Against The United States

Jackson Advocate

Jackson, Miss.

2-25-61 P1

Washington, D. C. Feb. 15 — A group of Negroes filed a suit here Tuesday against the United States government. The suit seeks to prevent the government from giving money to states with segregated public schools.

The suit was filed by Josephus Augustus Jordon, Jr., Edward Armistead Dawley Jr., and Leonard Winston Holt, Jr., all lawyers, of Norfolk Va., and John Allen Golden, Jr., a stockman at the Norfolk Naval Supply Center, and Barbara Thomas, a coed now in jail for taking part in a sit-in demonstration.

The suit named as defendants, President Kennedy, Abraham Ribicoff, Secretary, Health, Education, and Welfare; Douglass Dillon, Secretary of the Treasury, and Elizabeth R. Smith, Treasurer of the United States.

Suit asking cut off of U. S. funds

The Afro-Am Baltimore, Md

Fact 2-18-61

NORFOLK, Va. — "We're tired of having to file a new suit for every bit of relief. So we decided to go to the summit."

That was the way Attorney Joseph H. Jordan Jr., explained to the AFRO why he and his law partners, Leonard W. Holt Jr. and Edward A. Dawley Jr. decided to seek a restraining order against expenditure of federal funds for any activity where segregation is enforced.

The so - called summit suit was scheduled to be filed in Federal District Court at Washington Tuesday.

* * *

NAMED AS defendants will be President Kennedy, Secretary of Health, Education and Welfare Abraham Ribicoff, Secretary of Treasurer Douglas Dillon and United States Treasurer Elizabeth R. Smith.

Jordan and his two law partners are named in the petition as the plaintiffs, acting as their own counsel. They would seek relief as "Citizens of the United States."

If granted, the suit would have the effect of cutting off millions of dollars now being handed to Southern states which illegally maintained segregated colleges, public schools, hospitals, public housing, recreation facilities and airports.

* * *

MANY OF these colleges and public schools would have to close down if denied the funds given them by Federal agencies, Mr. Jordan said.

"We hope our suit will bring total relief," he said, pointing out that "at the rate we're going now we will not be rid of this segregation evil in the next hundred years."

Leonard Holt, who has been defending most of the student sit - down demonstrators throughout the South, first made public plans for the suit at Tallahassee, where he was representing a client before a Florida legislative investigating committee.

* * *

THE PETITION, broad enough to include institutions in all 50 states, is directly aimed at Mississippi, Alabama, Virginia, Louisiana, North and South Carolina, Arkansas, Texas, Florida and Georgia.

The youthful lawyers argue that the United States Constitution expressly forbids racial discrimination in education and other institutions that obtain funds from the Federal government.

Mr. Jordan told the AFRO the strategy of filing such a suit was first tried out in 1955 in Virginia on a state level. Virginia courts dismissed the action.

REPRESENTATIVE Adam Clayton Powell Jr., for a number of years has been introducing amendments to federal appropriation bills seeking to withhold funds from states which enforce segregation.

Support of this plan came in January from the U.S. Civil Rights Commission, which dramatically pointed up how Uncle Sam spends millions of dollars to help Southern states violate the Constitution.

NEGROES HIT SEGREGATION

The Montgomery Advertiser

Suit Seeks To Block School Funds

Montgomery Ala.

WASHINGTON (AP) — Suit to bar the use of federal funds for racially segregated schools in any part of the country was filed in U. S. District Court Tuesday by five Virginia Negroes.

Dec 15 61

The complaint, which names President Kennedy and several other officials as defendants, seeks a permanent injunction to restrain the government "from appropriating or disbursing federal funds to any of the thousands of institutions in both the southern and northern parts of the United States" where racial discrimination is practiced.

The suit was filed in an effort to block aid to "federally impacted school districts," those heavily populated by federal workers and servicemen. It also seeks to bar federal aid to segregated schools from the National Defense Education Act, which aids guidance, federal language and science programs, and aid from the National Science Foundation, among other federal programs.

Plaintiffs in the action are three Norfolk attorneys, Joseph A. Jordan Jr., 35; Edward A. Dawley Jr., 35, and Leonard Winston Holt Jr., 32; a Virginia Theological Seminary student, Barbara A. Thomas, 21, and a stockman at the naval supply center in Norfolk, Johnua Golden Jr., 31.

Miss Thomas is now serving a 30-day jail term in Lynchburg, Va., on a trespass conviction growing out of a sit-in demonstration there.

Negro School Suit

The Atlanta Constitution

Seeks to Block Aid

Atlanta Ga.

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Dec 15-61

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Miss Thomas is now serving a 30-day jail term in Lynchburg, Va., on a trespass conviction growing out of a sit-in demonstration there.

Charleston Bows To U.S. Order Of Mixing Links

The Montgomery Advertiser
Montgomery, Ala.
4-9-61

CHARLESTON, S.C. (AP) — The city of Charleston, bowing to a federal court ultimatum, will desegregate its municipal golf course rather than lose the facility.

Mayor J. Palmer Gaillard announced the decision Thursday night in a statement which urged "courtesy and understanding," by all those who will use the golf course.

His announcement followed a decision earlier in the day by the 4th U.S. Circuit Court of Appeals at Richmond, Va., which pushed up until May 26 an order to close the golf course or desegregate it. District court Judge Ashton Williams had given the city until July 26 to make the decision.

Charleston Golf Course Must Open Up

The Pittsburgh Courier
Pittsburgh, Pa.
4-15-61

CHARLESTON, S. C. — The Charleston Municipal Golf Course, located across the Ashley River and under Federal court attack the last two years, is now available to all golfers, or will be as of May 26.

The action came in a ruling by the U. S. Fourth Circuit Court of Appeals in Richmond, Va., last week. The Appeals Court overturned a ruling by U. S. District Judge Ashton H. Williams last December, which ordered the facility desegregated, but stipulated that his order would not take effect for eight months.

Plaintiffs appealed his ruling. The Fourth Circuit Court held that the Williams order involved needless delay, in that there is a difference between such facilities and schools, the former having little to involve them in a change o fpolicy.

12b 1961

SUPREME COURT (CALIFORNIA)

SEPTEMBER

AWARDED $6,100

NEGROES AWARDED DAMAGES FOR DISCRIMINATIO
CLAIMS N

Negroes Awarded Damages For Discrimination Claims

The Montgomery Advertiser

P. 15

SACRAMENTO, Calif. (AP) — An all-white superior court jury has awarded a total of $6,100 damages to five Negroes who claimed they were victims of racial discrimination in a Sacramento tavern.

Thurs. 9-21-61

The five men said they were discriminated against by Anthony Cabrielli, bartender at the Barrel Club, who served them each two drinks but refused to serve a third.

Montgomery, Ala.

Gabrielli testified he was using the discretion allowed a bartender to refuse service to anyone whom he considered to be intoxicated or a possible troublemaker.

Douglas Greer, attorney for the five Negroes, said Gabrielli "had twisted his discretion into a ruse of discrimination."

The five men were Walter Beatty, George Kinyone, Robert Coleman, Samuel Butler and Thomas J. Willis, all of Sacramento.

They had asked $7,250 damages each under the Unruh Civil Rights Act of 1959 which forbids establishments of every kind whatsoever."

Colleges, Public Schools, State Parks

900 Suits in Civil Rights Set to Flood S. C. Courts

Pittsburgh Courier E3

Sat 8-5-61

By JOHN H. McCRAY

COLUMBIA, S. C.—A battery of some 13 Negro attorneys is busy with more than 900 civil rights cases in South Carolnia, believed to be an all-time record for one year in a Southern state.

Atty. Matthew J. Perry, chi[e]f of the South Carolina NAACP's legal staff, told The Courier that more than 100 other cases were being simultaneously processed by attorneys for CORE.

The bulk, most of which are on appeal before the State Supreme Court, involves sit-ins and protest demonstrations against racial segregation.

It is likely, Mr. Perry said, that adverse rulings from the State Supreme Court will be taken before the U. S. Supreme Court. "We've laid the necessary foundations for such additional litigation," he said.

■

IN ADDITION to these cases NAACP attorneys plan speedy action towards school desegregation in Beaufort, Clarendon and Charleston Counties, suits against Clemson College, the Medical College of South Carolina at Charleston, Winthrop College for women at Rock Hill and possibly against the University of South Carolina.

Other cases are pending, or about to begin, to desegregate state parks and those operated on the municipal level.

NAACP lawyers are also tied up with several rights cases, two of which involve Dorchester County.

■

MR. PERRY lists the following cities and the estimated number of persons involved (in parenthesis), as including sit-ins and allied protests, or trespass and disorderly conduct cases to be argued or decided by the State Supreme Court this fall:

Charleston (24); Columbia (209); Darlington (4); Greenville (52); Florence (59); Spartan-

ing again when the appeal comes

nd, he says, to just keep on fight s, with their verve of determina getting popular in the South, water hoses as they paraded towards the town's business area to protest against lunch counter and other segregation.

Appeals from a magistrate court's conviction are pending in a state court.

■

THE LONG DANGLING Clarendon County desegregation case —one of the basic cases in the 1954 Supreme Court's historic ruling — is expected to come alive again, Mr. Perry said.

Clarendon County is under Federal Court order to desegregate "with all deliberate speed," an order which has stood since 1955. The county also is in court against several subsequent complaints all of which have lain dormant on a motion to dismiss.

Similar suits are in informative stages in Beaufort and Charleston Counties.

The Beaufort move is novel in that Negro parents aren't asking for reassignment of their children to white school. Rather, they are asking that their children to white schools. Rather, signed from the first day to white schools.

■

LEGAL JOCKEYING to draw lines in desegregation of institutions of higher learning is being pressed by two applicants for admission to Clemson, one at the medical college, and two have sought admissions to Winthrop.

Also in for court action is a pending suit to desegregate all of the state's public parks, numbering about 25, and desegregation of the Cleveland municipal park in Greenville.

Mr. Perry admits, however, that these cases present a tough schedule, but adds "This is our business and we expect to handle them on schedule."

He and his law firm partner, Atty. Lincoln C. Jenkins, handle the bulk of NAACP cases, but these other lawlers have been, or are associated in court actions the past two years:

Donald J. Sampson and Willie Smith, Greenville; John H. Wrighten, S. Russell Brown, Fred Moore, Charleston; W. W. Turnage, Darlington; W. Newton Pough, Orangeburg; E. A. Finney Pr., Sumter; Cleveland Stevens, Conway, and Alfonso Pendergrass, Beaufort. Mr. Finney also handles cases for CORE.

MOUND CITY, ILLINOIS
5 NEGROES DISMISSED IN MERGER

12c 1961 U.S. DISTRICT COURT

Negro Teachers Lose Jobs In Mound City, Ill.

Danville, Ill., July 27 — L. L. Owens and his wife, Gertrude charged in a United States District Court suit that they lost their jobs as teachers in Mound City, Ill., public schools because they are Negroes.

The couple alleged they were discriminated against after the merger of two high schools in Mound City. All five Negro teachers were dismissed and all seven white teachers retained, they charged. Before the merger one school served the white population, the other the Negro.

12d 1961

New Provision Could Force Retirement Of Three Judges

A little-noticed provision of a newly enacted law may force three state Supreme Court justices to retire within a year if they want retirement pay.

Going on supernumerary status and being ready to serve temporarily when called upon is the only way Supreme Court justices can get a pension. And, because of the new law, three of them may have only a year to do so.

The three jurists who fulfill all the retirement conditions are Chief Justice J. Ed Livingston, 69, and Associate Justices Davis F. Stakely, 78, and Robert T. Simpson, 68.

An amendment which might cause them to lose their pension rights if they stay in office longer than 12 months was tacked into a bill raising supernumerary pay from $6,000 to $7,200 a year. It says:

"Provided, however, that the justices eligible for supernumerary status at the time this bill becomes law shall have one year from the date it becomes law to elect to come within its provisions."

There was some question—and the Supreme Court itself may have to decide eventually—whether the new provision is valid. It would have to be challenged by some outside party before the tribunal would rule on it.

Simpson, one of the three justices affected, said he has no intention of retiring and voiced belief that the provision "probably would not stand up if its constitutionality is challenged."

He said the one-year requirement was written into a code section dealing with retirement pay and not the chapter governing retirement procedures. "Hence," he said, "there is question whether it is germane," or appropriate and legal in its present position.

The Supreme Court's Last Word

THE CLOCK is ticking toward a final judgment by the U.S. Supreme Court on requiring Communist plotters in this country to identify themselves.

In the past, they have wrapped themselves in the Bill of Rights, pretending to be members of a political party.

The Supreme Court stripped off that mask last June 5 in a decision ending 11 years of litigation. The Commies asked for a rehearing, and it was granted for the term of court starting Oct. 9. The order for the organization to register and list its members was held in abeyance pending the rehearing.

Perhaps by coincidence, although we doubt it, two big halls in New York City are the scene of rallies this weekend. Carnegie Hall was chosen as the site for a whoopdedoo Friday night under the aegis of the Emergency Civil Liberties Committee in Support of the Victims of the Hollywood Blacklist. Six thousand are expected in the St. Nicholas Arena tonight and Sunday for the National Assembly for Democratic Rights.

Rep. Francis E. Walter (D., Pa.) recently described these events as part of a campaign to agitate against the Supreme Court decision and take advantage of it as a "cause" for raising money.

The chagrin of the Communists over the court's decree is understandable. Here is a key passage from the majority opinion written by Justice Felix Frankfurter:

On the basis of its detailed investigations Congress has found that there exists a world Communist movement, foreign-controlled, whose purpose it is by whatever means necessary to establish Communist totalitarian dictatorship in the countries throughout the world.

Congress has found that in furthering these purposes, the foreign government controlling the world Communist movement establishes in various countries action organizations which . . . endeavor to bring about the overthrow of existing governments, by force if need be, and to establish totalitarian dictatorships subservient to that foreign government. And Congress has found that these action organizations employ methods of infiltration and secretive and coercive tactics; that by operating in concealment and through Communist-front organizations they are able to obtain the support of persons who would not extend such support knowing of their true nature; that a Communist network exists in the United States . . .

It is not for the courts to reexamine the validity of these legislative findings and reject them . . .

The Board, construing the statute, concluded that that foreign government was the Soviet Union. We affirm that construction.

No matter how the conspirators may howl, one thing is sure: the Supreme Court will have the last word, at that shortly.

Three high court justices irked at retirement 'joker'

BY HUGH W. SPARROW
News staff writer

MONTGOMERY, Ala., Sept. 22 — A "joker" turned up in House Bill 240, passed during the recent special legislative session, and some Supreme Court justices soon learned it could very well be aimed at them.

In fact, it is reported that Chief Justice J. Ed Livingston and Associate Justices Robert T. Simpson and Davis F. Stakely are hopping mad about it.

A close reading of the so-called "joker" contained in an amendment to House Bill 240 indicates that Supreme Court Justices of retirement age who do not retire within a year after passage of the bill forfeit future retirement rights.

The bill, which Gov. Patterson already has signed into law, amends Sec. 33, Title 13. It proposes to increase salaries of supernumerary justices from $6000 to $7200 a year.

A SUPERNUMERARY justice is one who has retired and receives a salary equivalent to a pension. Supernumeraries can be called back into service temporarily and the bill specifies that if so called they shall receive $400 a month in addition to their supernumerary pay.

The "joker" appears in an amendment, near the end of the bill; it says:

"Provided, however, that the justices eligible for supernumerary status at the time this bill becomes law shall have one year from the date it becomes law to elect to come within its provisions. Upon approval by the governor of an election by a Supreme Court justice, as authorized by Sec. 31 of this title, the office then held by him shall be filled as provided by Article 6, Sec. 158 of the Constitution.

Justices Livingston, Simpson and Stakely are of retirement age.

If they elect to come within the law Gov. Patterson can declare them supernumerary justices. But if they do not so elect, according to Capitol Hill legal authorities, they cannot become supernumeraries at a later date.

THE THREE justices are active and hard working members of the high court. Reportedly they had not anticipated retirement at any time in the near future.

But, just the same, they are said to be considerably upset because they might be deprived of their rights to retirement compensation at some time in the future.

The bill was sponsored by Reps. Tom Bevill of Walker, Pete Ray of Winston, Joe Goodwyn of Montgomery and Wiley Gordon of Blount.

The amendment with the joker was offered from the floor by Rep. Bevill, Jasper attorney, when the House was considering the bill.

Test Of N.A.A.C.P. Ban Speeded

Supreme Court Sets Deadline

Washington, Oct. 23 (AP)—The Supreme Court acted Monday to speed up a legal test of a 5-year-old ban on operation of the National Association for The Advancement of Colored People in Alabama.

The court said that unless the State courts go ahead with a trial on the issues within a reasonable time — no later than next January 2—the United States District Court in Montgomery, Ala., will hear the case.

Involved is a State-court order which the N.A.A.C.P. says bars it not only from organizational activities in Alabama but prevents it from taking any steps to qualify to do business in the state.

Refuses To Hear Appeal

The State-court order stems from a 1956 complaint by Alabama's attorney general business in the state without qualifying as an out-of-state corporation.

The N.A.A.C.P. turned to the federal courts, it said, because it believed Alabama's State courts would never act on requests for hearings.

In other decisions the court:

1. Refused to hear an appeal by a Negro woman that a Richmond, Va., ordinance requiring persons on the streets to move on when ordered to do so by police is unconstitutionally vague. The woman, Mrs. Ruth E. Tinsley, 58, was fined $10 for refusing to move along during picketing of a department store.

2. Granted an appeal to William Presser, head of the Teamsters Union in Ohio, from his conviction of trying to obstruct the work of the Senate rackets investigating subcommittee.

TOP COURT ACTS ON NAACP PLEA

Moves to Speed Legal Test of Alabama Ban

By JERRY T. BAULCH

WASHINGTON (AP)—The Supreme Court acted Monday to speed up a legal test of a five-year-old ban on operation of the National Association for the Advancement of Colored People in Alabama.

The court said that unless the state courts go ahead with a trial on the issues within a reasonable time—no later than next Jan. 2—the U.S. District Court in Montgomery, Ala., shall hear the case.

Involved is a state court order which the NAACP says bars it not only from organizational activities in Alabama but prevents it from taking any steps to qualify to do business in the state.

The state court order stems from a 1956 complaint by Alabama's attorney general that the NAACP was doing business in the state without qualifying as an out-of-state corporation.

The NAACP turned to the federal courts, it said, because it believed Alabama's state courts never would act on requests for hearings.

Alabama's officials were accused by the NAACP of "procedural maneuvers and deliberate design indefinitely to deprive it of redress."

Monday's decision set aside a ruling by the U.S. Circuit Court of Appeals in New Orleans, La., saying that the matter should be fought out first in Alabama's courts. The Circuit Court also has questioned whether a federal issue was involved.

The Supreme Court told the District Court to maintain jurisdiction and "to take such steps as may appear necessary and appropriate to assure a prompt disposition of all issues involved in, or in connection with, the state action."

The court's unsigned order noted that Justice Potter Stewart took no part in the decision. It gave no reason.

In a brief decision day the Supreme Court went through the process of changing its clerk. Chief Justice Earl Warren administered the oath of office to James R. Browning, the outgoing clerk, as a judge of the U.S. Circuit Court in San Francisco. Then Warren swore in the new clerk, John F. Davis.

Browning had been clerk since Aug. 15, 1958. Davis has been second assistant to the U.S. solicitor general.

In other decisions the court:

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Granted an appeal to William Presser, head of the Teamsters Union in Ohio, from his conviction of trying to obstruct the work of the Senate Rackets Investigating subcommittee.

Agreed to hear again a dispute over use of salmon traps by Indians in Alaska. Involved is a state ban on such traps and an Interior Department order authorizing them at the Indian villages of Kake, Angoon, and Metakatla.

The appeal by Presser centers on an incident that got wide attention at the time. He was charged with mutilating an invoice which contained the names of eight persons who were to receive $100 champagne buckets for Christmas in 1955.

Presser's appeal contends he was denied a fair trial by "misconduct" of government counsel.

Court Ruling Gives NAACP Hearing in Alabama Dispute

By James E. Clayton
Staff Reporters

The Supreme Court yesterday gave the courts of Alabama the choice of letting the NAACU have its day in court or losing jurisdiction over an effort to drive that group out of the State.

It was the third time the Justices have ruled on a case that Alabama's Attorney General initiaited more than five years ago. This time, the Court acted without hearing arguments.

It all began when the State obtained a temporay restraining order from a tSate judge on June 1, 1956. That barred the NAACP from registering as an out-of-State corporation or doing business in the State without registering.

To get the order, which is still in force, the State charged the NAACP with creating race tension sand unrest.

Group Fined $100,000

Within two months, the NAACP said it would register if given a chance, was ordered to produce all its records, and was fined $100,000 for contempt when it refused to reveal the names of its members and contributors although it turned over all other records.

The contempt action go to the Supreme Court. and the Justices struck it down in June, 1958. Six months later, the Alabama Supreme Court, again affirmed the contempt conviction and the fine, indicating that it thought the high Court in Washington did not understand the case.

The NAACP brought the decision back to Washington, and the Supreme Court, on June 8, 1959, reversed the Alabama courts again, and sent its mandate saying so to Montgomery.

Although such mandates are usually handled quicky by state courts, the Alabama Supreme Court ignored the requests by the NAACP to send the case back to a State trial court.

Nothing Happens

Finally, the NAACP asked a Federal District Court in June, 1960, to take over the case and tell the State to stop enforcing the 1956 restraining order. The Alabama Supreme Sourt then sent the case back for trial.

Since then. nothing at all has happened in the trial court. The Federal District Court said it shouldn't take over the case.

Yesterday, the Supreme Court said,, in three sentences, that the Federal court should hear the matter fully unless Alabama gives the NAACP a full hearing by Jan. 2.

The Justices cited only one case for their decision, one written by Chief Justice William Howard Taft in 1921. A sentence in his opinion says:

"The due-process clause requires that every man shall have the protection of his day in court and the benefits of the general law, a law which hears before it condemns, which proceeds not arbitrarily or capriciously but upon inquiry, and renders judgment only after trial . . ."

Other Court Actions

In other actions yesterday:

The Court dismissed as insubstantial an appeal by Joseph Chobot of Milwaukee of his conviction for selling obscene magazines. Justices Hugo L. Black, William O. Douglas, and John M. Harlan all noted their desire that the Court hear the case.

NAACP Scores Gain

By the Associated Press

The Christian Science Monitor Washington

The National Association for the Advancement of Colored People won a round in the Supreme Court Monday in its battle against an Alabama order which the association says bars it from activities in that state. Monitor

Acting without hearing arguments, the Supreme Court directed that the United States District Court in Alabama rule on the NAACP's complaint. P. 12

The NAACP appealed to the high tribunal after the United States Circuit Court in New Orleans said the complaint should be acted on first by Alabama state courts. The association's appeal said the NAACP believed the state courts would never act on requests for a hearing. Boston Herald

A 1956 complaint by the Alabama attorney general led to the litigation. The complaint charged that the NAACP was doing business in the state without qualifying as an out-of-state corporation. During the dispute the state obtained an order from a state court which the NAACP said bars it from organization activities, and also from taking any steps to qualify to do business in Alabama.

The high tribunal issued an order which set aside the ruling of the circuit court and directed the United States district court in Montgomery to try the issues involved.

The Supreme Court's order said that the trial should proceed unless, no later than Jan. 2, Alabama gives the NAACP an opportunity to be heard on an association order to dissolve the state court ban, and a hearing on the merits of the order. Mon. 10-23-61

Among other actions, the high court:

● Refused to hear an appeal by Mrs. Ruth E. Tinsley, a Negro, convicted of violating a Richmond, Va., ordinance requiring persons on streets to move on when ordered to do so by the police. Mrs. Tinsley was arrested in February, 1960, in front of a department store where pickets, protesting race segregation at eating places, were passing out handbills saying "Don't buy where you cannot eat."

● Agreed to review the conviction of William Presser, head of the Teamsters Union in Ohio, on a charge of obstructing justice. The charge was based on an allegation that he mutilated a union record demanded by the Senate Rackets Investigating Committee.

● Agreed to review the question of whether the Interior Department can authorize Indians in Alaska to use salmon traps which are forbidden by the state's constitution and laws. The department gave such authority to three Indian villages.

HIGH COURT TAKES FIRST SIT-IN CASES

P. 18 C

Agrees to Review Conviction of 16 Negroes Seized at Counters in Baton Rouge

The New York Times

Special to The New York Times.

WASHINGTON, March 20—The Supreme Court agreed today to consider its first cases arising from the Negro sit-in campaign in the South.

The court granted review of the convictions of sixteen Negro students for sitting at "white" lunch counters in Baton Rouge, La. All drew sentences of four months in jail, with three months to be suspended on payment of $100 fines and costs.

The students sat at the counters of a drug store, a chain variety store and a bus terminal on March 28 and 29, 1960. They were told that the counters were for white persons, but they did not move.

According to the evidence, the proprietors of the three businesses did not seek to have the demonstrators prosecuted as trespassers. The police had the idea of arresting the students, who were prosecuted for breach of the peace.

'Disturbance' Law Invoked

The students were convicted of violating a Louisiana statute that makes it a crime to act "in such a manner as to unreasonably disturb or alarm the public." The state courts found that the continued presence of the Negroes at the "white" counters might have led to such a disturbance.

This background facts in the case are more favorable legally to the Negro students than those in most other sit-in prosecutions. The common charge in other cases has been trespass—staying on private property against wishes of the owner.

Since the Constitution prohibits only governmental, not private discrimination, the sit-in demonstrators must show that some state action has discriminated against them. That may be harder to show when a trespass complaint is brought by a private person, the store owner or manager.

Violation of Rights Seen

In their Supreme Court petition, the students said their convictions had unconstitutionally violated their right to freedom of expression and had not been supported by any evidence of breach of the peace. The arrests were also attacked as a state device to enforce racial segregation.

The state, responding, said there was no doubt that the store managers and owners had not wanted the demonstrators there and that the demonstration could have led to violence.

As for freedom of expression, the state said the students could have expressed themselves in newspapers or by radio or television, but had no right to do so by going on private property where they were not wanted.

The three cases will probably not be argued until the next Supreme Court term, beginning in October.

Sit-In Case Argued Before Supreme Court

Birmingham World P. 1

Wed. 11-1-61

WASHINGTON—The staid and historic chamber of the U.S. Supreme Court was the scene on October 26 of oral argument on the first southern "sit-in" cases which the Court has agreed to review.

The cases involve convictions of 16 Negro students in three lunch counter demonstrations in Baton Rouge, La.

Jack Greenberg, NAACP Legal Defense Fund General Counsel, asked the Court to reverse the Louisiana convictions. The students were arrested for breach of the peace in April, 1960, and sentenced to 30 days in jail plus a $100 fine, or, in lieu of the fine, another 90 days.

The Supreme Court chamber was filled with interested spectators, including U. S. Solicitor-General Archibald Cox and NAACP Executive Secretary Roy Wilkins.

John Johnson of Cullen, La., and Kenneth L. Johnson of Baton Rouge, La., two of the arrested "sit-inners," were present. They are both currently attending Howard University in Washington, D. C.

Mr. Greenberg told the Court that the Louisiana trial court record did not substantiate a charge of "breach of the peace" in any of the cases. He continued that the students were arrested by Baton Rouge Police Captain Robert Weiner, who "operated a flying police squad" which made arrests in these cases simply because the Negro students were sitting at lunch counters reserved for whites.

Mr. Greenberg argued that such arrests were "essentially state action to maintain and preserve racial segregation, and such use of state power is expressly prohibited by the Fourteenth Amendment of the U. S. Constitution."

ANSWERS QUESTION

Mr. Greenberg also told the Court, in answer to a question by Justice John Harlan, that if refusing to leave a lunch counter when ordered by a policeman constituted a breach of the peace, then the Louisiana statute was unconstitutional, for "making the mere presence of Negroes at a white lunch counter constitute breach of the peace."

John F. Ward, Jr., Asst. District Attorney in Baton Rouge, argued for Louisiana.

Mr. Ward contended that the arrests were justified in the light of violence in other cities where protest demonstrations had taken place, and because of the existing inflammatory mood in Baton Rouge at the time of the demonstrations. On this he was closely questioned by the Court, and was hard pressed to document his assertions.

Mr. Ward also argued that though the students were not actually asked to leave by representatives of the three businesses involved, their being told they "could not be served" should be interpreted as a request to leave. He was questioned on this point by Justice Hugo L. Black, who suggested that there was a difference between telling the students they would not be served at the white lunch counters and ordering them out.

The Louisiana attorney concluded his argument by asking the Court to take judicial notice of the atmosphere in Baton Rouge, even though there was no testimony concerning the mood of the city the record.

The Supreme Court decision often may not be handed down until 30 days after argument, but in more complex cases, such as this one, it is not unusual for the Court to deliberate longer.

12d 1961 SUPREME COURT

OCTOBER
SUPREME COURT REJECTS PLEA OF
MRS. RUTH E. TINSLEY, 58
RICHMOND, VA.

Supreme Court Rejects Richmond Negro's Plea

Associated Press

A Negro woman fined $10 for refusing to move along on a Richmond sidewalk during picketing of a department store was refused a hearing by the United States Supreme Court yesterday.

Ruth E. Tinsley, 58, demanded to know a policeman's reason for ordering her to move.

The Supreme Court in rejecting her appeal, said no substantial Federal question was involved.

The incident occurred outside Thalhimer's Department Store on Feb. 23, 1960, where pickets were parading in an effort to desegregate its eating facilities.

Counsel for Mrs. Tinsley contended in appealing to the high tribunal that a Richmond ordinance, requiring persons on streets to move on when ordered to do so by police, is unconstitutionally vague.

Virginia's Supreme Court upheld the validity of the ordinance. "In this case," the State Court said, "where at the time of the arrest picketing of a highly controversial nature was taking place, crowds of people were on the sidewalks, some friendly and some hostile to the pickets, and tensions ran high, it was imperative that order be maintained . . .

Girl in Sit-In Begins 30-Day Jail Sentence

LYNCHBURG, Va., Oct. 23 (AP) — A 16-year-old Lynchburg Negro sit-in demonstrator began serving a 30-day jail sentence today.

The girl of Madison Heights appeared before Judge O. Raymond Cundiff this morning in Corporation Court and was ordered to begin her sentence.

The Judge then announced that 10 other Negro demonstrators had been granted a continuation until Nov. 2, because their attorney was in Federal Court today on another case.

All of the demonstrators had been ordered to appear today because the State Supreme Court turned down their appeals. The adults were fined $100 and sentenced to 90 days in jail each on April 6 on charges of trespassing.

The girl was sentenced to 30 days in the Juvenile Court. All had appealed their convictions to the State Supreme Court.

12d 1961

Supreme Court Rebuffs Negro's $180,448 Suit

The Atlanta Constitution
A 3 Atlanta, Ga.

Constitution Washington Bureau

WASHINGTON—The Supreme Court Monday refused to review a decision in a Georgia Negro's suit for damages against police officials who, she charges, illegally arrested her husband and beat him to death.

Now the case will be tried in federal court in Georgia.

Mrs. 11-21-61

The widow, Mrs. Hattie Brazier, is asking $180,448 from the sheriff of Terrell County, the chief and three other policemen in Dawson and the insurance company that stood bond for the sheriff.

Pressing here claim under the 14th Amendment and Civil Rights acts passed during the Civil War and Reconstruction, Mrs. Brazier asked that Georgia law also be applied. Georgia laws say a person may recover "full value of the life of" the dead person and that a longer period of time may elapse before the suit has to be filed.

This was done because federal statues limit liability to $5,000 and require that a suit be filed within one year after the death.

The death of her husband, James Brazier, occurred in 1958, following his arrest in Dawson. In 1960, Mrs. Brazier filed suit in Middle Distrist of Georgia Federal Court. The judge ruled in effect that there was no federally enforceable claim for damages.

The U.S. Fifth Circuit Court of Appeals reversed that ruling in July of this year and ordered a trial.

The police officials and insurance company appealed that decision to the Supreme Court, arguing that no federal question was involved and that the courts of the state were "open to the complainant."

A U.S. district attorney sought indictments for brutality against three police officers involved in the case three months after the death of Brazier. A grand jury in Macon returned no indictments.

SUPREME COURT

NOV.
REFUSED TO REVIEW A DECISION IN A GEORGIA NEGRO'S SUIT FOR DAMAGES AGAINS T POLICE OFFICIALS. . . .(CHARGE-ILLEGALLY ARRESTED HER HUSBAND AND BEAT HIM TO DEATH)

12d 1961

Supreme Court Sets Aside Negro's Capital Sentence

By the Associated Press

Washington

The Supreme Court Monday set aside the conviction of Charles Clarence Hamilton, a Negro sentenced for capital punishment in Alabama on charges he broke into the bedroom of a white woman.

Counsel for Mr. Hamilton contended the Negro was denied due process of law guaranteed by the United States Constitution because he did not have aid of a lawyer when he was arraigned on the charges.

Associate Justice William O. Douglas deliexered the unanimous decision.

In a three-page opinion, he said:

"When one pleads to a capital charge without benefit of counsel, we do not stop to determine whether prejudice resulted. In this case . . . the degree of prejudice can never be known. Only the presence of counsel could have enabled this accused to know all the defenses available to him and to plead intelligently."

The high court action does not prevent Alabama from further prosecution efforts against Mr. Hamilton.

Mr. Hamilton was sentenced to the electric chair on April 23, 1957, and his counsel then began a long series of appeal moves. The counsel said there was no evidence that the woman was harmed or that Mr Hamilton had weapons or burglar tools.

It was a light day in the Supreme Court today, only a few actions being announced Among other things, the tribunal:

● Refused to consider an appeal by Richard Arlen Lindsay under capital sentence in California for the murder of a 6-year-old girl, Rose Marie Riddle. The state charged the child was killed after being kidnaped from Shafter Labor Camp near Bakersfield, Calif.

● Denied a review to Robert B. Baker, Teamsters Union organizer convicted of taking $525 from an employer in Pittsburgh, Pa., to settle a strike. Baker. associate

State's Duty Expanded in Crime Case

Ala. Arraignment Without Lawyer Nullified by Court

By James E. Clayton
Staff Reporter

The Supreme Court expanded the rule requiring states to provide lawyers to defendants in criminal cases a bit more yesterday.

It did so by deciding that when the arraignment is a "critical" part of a criminal proceeding, a man charged with a capital offense must have a lawyer.

The Court's ruling came unanimously in the case of Charles Clarence Hamilton of Ensley, Ala. The Justices said that Alabama's failure to give Hamilton a lawyer at his arraignment nullified his conviction and death sentence for breaking into a house at night with intent to ravish.

Found in Bedroom

Hamilton was found in the bedroom of an elderly woman Oct. 12, 1956. He said he thought she had called him in to help her. Presumably, Alabama is now free to indict him again and start the proceedings all over.

The Supreme Court has never before said specifically that defendants in capital cases must have a lawyer at arraignment. Instead, the rule established in the Scottsboro case almost 30 years ago was that they must have a lawyer "at every step in the ((criminal) proceedings."

Some states have held that this does not include arraignments nor coroner's inquests. As a result of yesterday's decision, they will have re-appraise their practice to see if those hearings constitute a "critical" part of the criminal process.

Arraignment Held Critical

The reason why arraignment is critical in Alabama, Justice William O. Douglas explained for the Court, is that the defense of insanity and an attack on the composition of the grand jury must be made then or not made at all.

In other actions yesterday:

FELA CASES

By a vote of 7 to 2, the Court set out a new definition of when a railroad worker is an employe for the purpose of bringing a damage suit under the Federal Employes Liability Act.

The West Virginia Supreme Court had ruled that Carl Still, 34, could not sue the Western Railway Co. for injuries he suffered in 1956 because he had gotten his job six years earlier through fraud. That meant Still was not legally an employe, the State court said.

James R. Hoffa, Teamsters Union president, was fined $1,200 and sentenced to two years' imprisonment, but was put on probation provided he paid the fine. The denial of the review lets the conviction stand.

● Refused to rule on a contention by New York City's Commissioner of Parks that he had a right to deny a permit for George Lincoln Rockwell, American Nazi, to speak in Union Square. The New York State Court of Appeals held that Mr. Rockwell had a right to the permit. Parks Commissioner Newbold Morris appealed to the United States Supreme Court but it refused to go into the case, thus allowing the lower court decision in Mr. Rockwell's favor to stand.

Supreme Court split follows historic pattern in '61 cases

BY PAUL M. YOST

WASHINGTON, June 24 (AP)—Occasional flare-ups on the Supreme Court bench put the justices in headlines this court year, but cold statistics indicate the tribunal's splits remained about the same as in recent years.

In one of the sharpest ad libs of the session that just ended Chief Justice Earl Warren said Justice Felix Frankfurter was "degrading" the court. Frankfurter fired back that he would "leave it to the record."

Justice Tom C. Clark in a biting protest against a decision in favor of a Georgia moonshiner declared the highest court was contributing to the breakdown of law enforcement.

Thus it went, but after the air cleared the justices could be observed chatting amiably. And there was handshaking all around when the difficult nine-month term ended last Monday with an outpouring of more than 157,000 words in 10 decisions.

A BRIEF GLANCE at the voting record showed the court's attention-winning 5-4 decisions totaled 27 for the 1960-61 term. In the previous term there were 28 such splits. The four dissenting voters in both years often were the court's liberal bloc of Chief Justice Warren and Justices Hugo Black, William O. Douglas and William J. Brennan.

There were 39 unanimous votes in the last term; 32 in the 1959-60 term. The court split 6-3 in 22 instances in the last term compared with 25 times in the previous term. Other split vote totals compound closely with those of earlier years of the "Warren Court."

Two of the 5-4 votes decided probably the most important cases of last term.

By a one-vote margin the court upheld registration requirements of the 1950 Internal Security Act. After 10 years of litigation the Communist Party and its members must now register with the attorney general. But Frankfurter granted a stay Friday.

Another one-vote margin upheld a section of the 1940 Smith anti-Communist act. The section makes it a crime to belong to an organization knowing it advocates violent overthrow of government.

OTHER 5-4 VOTES UPHELD the right of states to exclude from law practice persons who refuse to say if they belong to the Communist Party, and upheld in broad terms the investigating power of the House committee on un-American activities.

Unanimity was reached in deciding that the U. S. Constitution prohibits any religious test for public office holders in either a state or the federal government. This ruling struck down a Maryland requirement that public office holders must declare their belief in the existence of God.

Also unanimous was the court's refusal to review a decision that tuition payments to Catholic parochial schools by a Vermont school board violated the U. S. Constitution. The refusal let stand unchanged a Vermont Supreme Court decision banning such payments.

Another touchy church-state issue was sidestepped by unanimous vote. A Pennsylvania case involving constitutionality of Bible reading in public schools was sent back to a lower court for reexamination in the light of a change in the state's law. Under the change, pupils whose parents so request may be excused while the Bible is being read.

The court upheld constitutionality of state blue laws, prohibiting commercial activity on Sunday, over objections that such statutes interfered with the free exercise of religion and were invalid as an "establishment of religion."

IN THE LABOR FIELD, some of the term's most important decisions were:

Individual members of railway unions have the right to refuse to have their dues used for political purposes; the 1940 transportation act does not require that all employes of merged railroads be kept in an active employment status; union hiring hall agreements are not in themselves illegal.

In the field of race relations the court ruled that segregation in bus station restaurants used by interstate passengers was illegal; a privately operated restaurant in a publicly owned parking garage may not refuse to serve Negroes; states may not change boundaries of a city if the effect is to exclude virtually all Negro voters; Arkansas may not compel its public school teachers to list all organizations to which they belonged in the last five years.

The court let stand unchanged rulings by lower federal tribunals that states must produce voting records on demand of the U. S. attorney general. The lower tribunals in so ruling also affirmed constitutionality of sections of the Civil Rights Act of 1960.

Court Overworked? Even It Can't Agree

The Washington Post
Washington D.C.

By James E. Clayton
Staff Reporter

AN APPARENTLY simple question about the operation of the Supreme Court is probably the most difficult for an outside observer to answer. It is merely this: Are the Justices overworked?

One Justice, Potter Stewart, says that they are: "This work load means, I am sorry to say, that there simply is not so much time as ideally there should be for the reflective deliberation so essential to the judicial process."

Another Justice, William O. Douglas, says they are not: "I do not recall any time in my 20 years or more of service on the Court when we had more time for research, deliberation, debate and mediation (than we now have)."

A Lawyer's Argument

BOTH COMMENTS were made on the same weekend last spring. Both were provoked by a discussion of the Court's work load which began among lawyers late in 1959 when Prof. Henry Hart Jr. of the Harvard Law School excoriated the Justices for wasting time on what he thinks are trivial cases.

Last November, Dean Erwin Griswold of the same law school, agreeing with Hart's general conclusion, wrote: "The volume of the work of the Court is staggering. When one adds to that the factual complexity, the intellectual and legal intricacy of many of the questions, the public importance of the problems and the difficulties inherent in reaching mutual understanding in any group of nine men, the burden seems to be insupportable . . ."

Both Hart and Griswold believe that the quality of the Court's work has suffered because of the work load.

In the mid-1920s, all the Justices agreed that they were overworked. Congress thereupon reformed the Court's jurisdiction. Now the Justices disagree on that question, and they are the only ones who can make a totally informed judgment.

These are the facts upon which the public must made its judgment:

● In the court year ended last June, 1862 cases were filed—a record. In 1938, the number was 942.

● The greatest increase has been in the cases which take the least time. These—petitions for a hearing filed by those who cannot pay the costs—jumped from 83 in 1938 to 772 in 1958. Most of these are turned down summarily.

● The number of opinions written for the Court has decreased over the last 30 years. A peak of 171 was reached in 1937. In 1951, the number dropped to 95. In the last four terms, it has been 118, 116, 112 and 105.

● The number of opinions written by individual Justices (concurring, dissenting) has increased. In 1953, they wrote 138. In the last three terms, the total has been 220, 214 and 230.

● The number of hours of oral argument is smaller than it once was. In several years before 1946, the Justices were on the bench more than 300 hours. Now, the figure stays close to 220.

Whether or not this means that the Justices are overworked, it is clear that they have more cases and more important ones to decide than any other appellate court in the Nation. The load is likely to increase but there is not a great deal that anyone can do about it.

The mandatory jurisdiction of the Court over some cases could be reduced. The Justices could be given more discretion in choosing which cases they will decide. Lawyers could help by not filing so many cases which do not merit attention. Congress could set up some new courts to carry part of the burden.

A Limited Function

BUT IN considering these steps, it is important to remember what the Supreme Court is for. It is not a Court designed to undo all the mistakes made by lower courts. It is not a Court designed to correct all injustices.

This is not to say that the Court never worries about mistakes and injustices. But its basic function is still what John Rutledge of South Carolina said it was in 1789—"to secure the national rights and uniformity of judgments."

In 1949, the late Chief Justice Fred M. Vinson said that the Court has three basic jobs: to resolve conflicts on Federal questions which have arisen under lower courts; to pass on question of wide import under the Constitution and Federal laws; to supervise the lower Federal courts."

If the Court is to be effective, he said, it must "decide only those cases which present questions whose resolution will have immediate importance beyond the particular facts and parties involved."

It is clear to anyone who reads the hundreds of petitions which the court receives each year that those who lose in lower courts, and often their lawyers, do not appreciate the Supreme Court's function.

What Chief Justice Charles Evans Hughes said in 1937 is still true: "I think that it is safe to say that about 60 per cent of the applications for certiorari are wholly without merit and ought never to have been made."

Of course, Dean Griswold pointed out that the Court can help reduce the number of such requests by being "more careful and consistent and restrained . . ." He explained, "As things are now, with the lightning striking here and there from time to time, it is very hard indeed for conscientious counsel to advise against the filing of a petition. . . ."

GRISWOLD SUGGESTS that one way Congress could help the Court is to set up a new Tax Court of Appeals which would have the final word on all tax problems except constitutional ones.

Last year, for example, the Supreme Court decided 12 tax cases after full argument—more than 10 per cent of the total number of cases it decided with full opinion. Most of these involved issues on which lower Federal courts had disagreed; only one involved a constitutional question.

Other lawys have suggested that other courts be set up in other fields. But all these ideas run into the same two objections: (1) there can be only one Supreme Court and, although Congress can cut off much of its jurisdiction, doing so in one field might set dangerous precedents in others: (2) courts with specialized jurisdiction tend to become ingrown so that they lack the necessary breadth for wise judicial action.

THE THIRD suggestion—that the Justices exercise more discretion in deciding which cases to hear—usually is made by those who disagree with the present selection. A key area here is Federal Employe Liability Act cases.

For almost 40 years, Justice Felix Frankfurter has been saying that the Court should not worry with these. He insists that they involve the weighing of facts, a task normally left to lower courts. But for the more than 20 years that he has been on the Court, he has been outvoted by his brothers.

THE ONLY other area in which suggestions for change have been made is that of the Court's mandatory jurisdiction.

Cases currently arrive before the Court in two ways—on appeal and on petition for a writ of certiorari. Of those brought on petition, the Justices have complete freedom to choose which they will hear. A denial of the petition, although ending that particular case as the lower court decided it, carries no endorsement of the lower court's decision; it means only that the Justices did not choose to hear the case.

But for those brought on appeal, the Justices do not have the same freedom. They can, and often do, dismiss such cases, most frequently because there is no substantial question. They can also affirm or reverse the lower court summarily. But because an order summarily upholding or reversing a lower court sets a legal precedent, these cases require more time than those brought on petition.

WHEN THE Court's jurisdictional statutes were last changed, in 1925, Chief Justice William Howard Taft wanted to do away with this mandatory jurisdiction. Congress refused to go along with him but many observers think that, in practice, the Court has adopted his idea. Writing it into law might clarify the existing situation without making much change in the Court's work load.

All that the suggestions would do, however, is to reduce some of the Court's minor work. The basic work load seems irreducible because, as Dean Griswold wrote, it comes from the number of cases "of extreme complexity and difficulty which, in the public interest, have to be decided."

Supreme Court's Actions

Special to The New York Times.

WASHINGTON, March 20—The Supreme Court took the following actions today:

ANTITRUST LAW

Unanimously affirmed a District Court judgment that a manufacturer of community antenna systems had violated the antitrust laws by, among other things, selling the antennas only on condition that the company also get a contract to service the system (No. 631, Jerrold Electronics v. U. S.).

Agreed to review a decision that the Columbia Broadcasting system did not violate the antitrust laws by buying a station in one of its affiliates' markets and then transferring the affiliation to its own station (No. 690, Poller v. C. B. S.).

COPYRIGHT

Agreed to review a decision that Admiral Hyman G. Rickover had lost exclusive rights in some of his speeches because they were widely distributed as news release but that he retained rights to others that he copyrighted, even though they also were distributed by the Navy (Nos. 649 & 739, Public Affairs v. Rickover).

CRIMINAL LAW

Held, 7 to 2, that a Connecticut convict under death sentence had been denied due process of law because the state trial court, in passing on a confesion, considered its probably reliability as an element in determining whether it was voluntary; the dissenters would have directed the lower Federal courts, which had the case before them on a habeas corpus petition, to determine whether the confession was voluntary (No. 40, Rogers V. Richmond).

Held, 5 to 4, that a person who assisted a theft of Government funds and, seventeen days later, received some of the stolen money could be convicted of either theft or receiving stolen property, but not both (No. 79, Milanovich V. U. S.).

Unanimously directed the Florida courts to give a hearing to a man contending he was sentenced unconstitutionally as a second offender because, among other points, he was denied the right to retain counsel (No. 115, Reynolds V. Cochran).

Agreed to decide whether a Federal prisoner may challenge his sentence in a collateral proceeding on the ground that he was not asked whether he had anything to say before he was sentenced (Nos. 178 misc., Hill v. U.S., and 250 misc., Machibroda v. U.S.).

EXTRADITION

Agreed to decide whether a Federal court had power to subpoena New York bank records of Marcos Perez Jimenez, former Venezuela president, in a proceeding by the present Venezuelan Government to extradite him from his Florida refuge on the ground of crimes assertedly committed before he was deposed (Nos. 77 and 688, Aristeguieta v. First National City Bank).

FREE SPEECH

Refused to reconsider its decision of Jan. 23 upholding predcensorship of movies (No. 34, Times Film v. Chicago).

Denied a hearing to Mrs. VI Murphy, a Colorado newspaper woman who was sentenced to jail for thirty days for contempt of court in refusing to disclose a news source; one justice noted that he would grant a hearing (No. 672, Murphy v. Colorado.).

RACE RELATIONS

Summarily and unanimously affirmed lower-court decisions striking down Louisiana laws designed to block school desegregation in New Orleans (Nos. 589, 613, 706, Orleans Parish School Board v. Bush).

Agreed to review the convictions of sixteen Negro students arrested for breach of the peace when they sat at "white" lunch counters in Baton Rouge, La. (Nos. 617, 618, 619, Garner, Briscoe & Hoston v. La.).

Agreed to review a decision by the Virginia Supreme Court of Appeals finding that the National Association for the Advancement of Colored People had violated a state law against solicitation of legal business (No. 689, N. A. A. C. P. v. Harrison).

TAX IMMUNITY

Held unanimously that the Home Owners Loan Act of 1933 prohibits a state from imposing a stamp tax on notes given to a Federal home loan bank to cover a loan by it to a Federal savings and loan association (No. 126, Laurens Federal Savings V. S. C.).

Agreed to review a Kansas decision that a Federal land bank's interest in an oil lease was subject to the state personal property tax despite a Federal immunity statute because the investment did not further the bank's "governmental function" (No. 614, Federal Land Bank v. Board of County Commissioners).

TRANSPORT

Upheld an Interstate Commerce Commission order approving interstate service around New York by the United Parcel Service (No. 584, Yale Transport v. U. S.).

Agreed to review a District Court decision setting aside an I. C. C. ruling that use of trucks on a per-mile charge basis was not exempted "private carriage," where the truck owners maintained and drove the vehicles (Nos. 608-9, U. S. & Regular Common Carrier v. Drum).

'No Double Standard'

"With all deliberate speed" was the way the Supreme Court decreed school integration in 1955—and since then almost all the resultant commotion has concerned the South. But last week came a stern reminder that desegregation is the law of the land—in the North as well.

"I find that the Board of Education of New Rochelle, prior to 1949, intentionally created Lincoln School as a racially segregated school, and has not, since then, acted in good faith to implement desegregation as required by the Fourteenth Amendment."

With these words, Federal Judge Irving R. Kaufman* reached a decision on school segregation which may well be the most important since the original Supreme Court edict. In effect, he warned Northern school boards that "no double standard" will be tolerated.

Kaufman's decision, handed down in Federal District Court in New York, came in the case of eleven Negro parents (NEWSWEEK, Oct. 3) who filed suit last fall against the local school board in New Rochelle, a bustling suburb of some 80,000 persons, 20 miles north of Manhattan. The parents had accused the board of deliberately fostering segregation at the 62-year-old Lincoln School, which has only 29 white pupils among its enrollment of almost 500. This racial imbalance, the parents charged, results in inferior education for their children. The board, on the other hand, maintained there was no deliberate segregation and that the school merely reflected the ethnic character of the surrounding neighborhood, which is in the heart of New Rochelle's burgeoning Negro residential district.

Gerrymandered: In his 48-page decision, Judge Kaufman rejected the board's contention and accused it of having gerrymandered the school district lines in order to keep Lincoln almost all-Negro. The judge said that this violated the spirit of the Supreme Court decision and he ordered the board to submit a desegregation plan by April. Paul Zuber, Negro attorney for the parents, hailed the decision as having far-reaching implications in other Northern cities.

The school board is withholding a decision to appeal, pending a study of the judge's lengthy verdict. However, a source close to the board, insisted:

"This will not be the final word. The decision does not take into consideration that two-thirds of our 1,200 Negro elementary-school pupils attend schools other than Lincoln. With Lincoln, rather than deliberately creating segregation, we're trying to get at the root of the difficulty, the segregated character of the housing in the area. In all honesty, we don't think we're violating anyone's constitutional rights."

▶In New Orleans last Friday, only a few hours after a white boy—9-year-old Gregory Thompson—switched from a segregated school to the third grade at McDonogh No. 19 (boycotted by white students since three Negro girls enrolled last Nov. 14), the boy's father reported that he lost his job. At first, J.C. Adams, manager of the Walgreen's drugstore where the father worked, seemed to agree. "He didn't cut the mustard," Adams explained. But then Walgreen's announced it was all a misunderstanding; the father, John H. Thompson, was simply being transferred to another store.

*Famous for sentencing atom spies Julius and Ethel Rosenberg to death in 1951.

Newsweek—Bresnan

Hello? Good Fairy?

For any tot in Hull, England, fairyland is as close as the telephone. Just dial 211. A sweet feminine voice answers—she could be the good fairy herself—and she tells a bedtime story about Father Christmas, or a goose, or a pony, or almost anything from the land of never-never.

The local telephone company since last December has been providing each night a different, original, three-and-a-half-minute, tape-recorded bedtime story for its subscribers. The stories have become so popular that last week the company logged 12,000 calls to Hull 211—some from London and Glasgow, and some from as far away as Norway, West Germany, and France. Perhaps of most interest, all of the stories were written by amateurs—students in the creative-writing course of the local Kingston upon Hull (teachers) Training College.

Last fall, Mrs. Mary Y. Sowerby, a 34-year-old Scotswoman who lectures in education at the coeducational school (314 students), offered original bedtime stories by the college's novice writers for the phone company to transmit to subscribers, as it does cricket scores and cooking recipes. Telephone manager Hugh V.J. Harris accepted, and the bedtime story was made a regular weekly assignment in the creative-writing course.

Student Wendy Richards, 19, was able to dash off a story in three minutes—about a Teddy bear and a candle, separated and later reunited. "I wanted to help children understand loneliness and friendship," she said.

Naturally, the children are the final judges of a story's merit. When asked, rosy-cheeked Jamie Haworth, 4, whose mother dials 211 for him, sang out: "I like the ones about animals and Father Christmas." More sophisticated, Sue Richardson, 7, who dials her own, said unequivocally: "I like them because they don't have those old-timey words you get in Grimms' Fairy Tales."

The Company Till

In the private dining room of board chairman Charles M. White atop the Republic Steel Corp. building in downtown Cleveland, seven executives from various Cleveland firms were talking over a pet project: Fund-raising for colleges and universities. "Actually," said brisk-mannered George S. Dively, Harris-Intertype Corp. chairman, "business and industry have received far more from higher education than they've given in return . . . It's time we balanced the account."

Dively had in mind the fact that U.S. corporations as a whole contribute an average of only $150 million annually to higher education, not quite one-third of 1 per cent of their earnings. The idea born of that meeting: Pledge corporations to give at least 1 per cent of their earnings to colleges.

Under the leadership of Dively and White, a document called the Cleveland Compact was drawn up. As of last week, 21 Cleveland firms had pledged to give higher education "corporate contributions . . . increasing within three years to a minimum of 1 per cent of income before taxes." The total annual donation by the 21 pledge signers will be $2 million.

Compact members are now circulating the pledge in other major cities. If all the nation's corporate donors raised the ante to 1 per cent of earnings, their annual contributions to higher education would soar to $500 million.

Integration Drive:
The Christian Science Monitor
A Six-Year Record
Boston, Mass.

By Leon W. Lindsay
Staff Writer of The Christian Science Monitor

It has been more than six years since the United States Supreme Court ruled racial segregation in public schools unconstitutional. Depending on one's viewpoint, the follow-through on this decision has been too slow, too rapid, or moderately successful.

Under new leadership, the nation has been engaged in a far-ranging appraisal of the complex challenges of a new decade. Few of these challenges are really new; one of the most durable is the problem of race relations.

Will the United States see any massive lowering of racial barriers in the schools in the years immediately ahead? The past argues against sweeping action, but here are some things that might be expected, starting in 1961:

● From the White House: President Kennedy in his campaign pledged "moral and persuasive leadership" toward compliance with the Supreme Court decision. Actually, this leadership could take practical form in direct action on behalf of school desegregation by the Attorney General's office. Will suits be initiated against local school authorities to enforce integration?

Platform Recalled

The Democratic platform provision for legislation requiring segregated school districts to submit plans for first-step compliance by 1963 faces doubtful prospects in Congress.

● From Southern Governors and other leaders: Every Deep South Governor in office today was elected on a pledge of continued segregation in public schools. But individual interpretations of that pledge vary from Virginia to Arkansas. Recent events indicate a willingness to exhaust all legal means to block integration, but an unwillingness to sacrifice the school system to maintain segregation.

● From the courts: The federal district courts, backed by all the power and prestige of the Supreme Court, have displayed an unyielding purpose of overturning every obstacle put in the way of compliance with integration orders.

● From prointegration forces: The NAACP retains its role as chief initiator and advocate before the bar for desegregation. It now can count on the support of the impatient, well-informed, militant Negro college students.

Also, Negroes in the South have discovered the power of the economic boycott. In many areas, the withdrawal of Negro patronage—as was done in Nashville in support of the lunch-counter sit-ins—may be wielded in support of integration moves.

● From prosegregation forces: groups such as the White Citizens Councils, which initially drew support from "solid" elements of Southern white society, will continue to bring social, political, and economic pressure to bear against any lowering of the barriers. But the economic weapon has been found to be two-edged, and the more extreme types of social and political pressure have tended to repel many Southern moderates despite their antiintegration sympathies.

Fanatic Power Wanes

Fringe groups, such as the Ku Klux Klan, and the purveyors of hate and violence have seen their influence wane rapidly, though they will continue a nuisance.

Apparently there is a growing reluctance to give up a painstakingly improved public school system for the uncertainties of "private" segregated schools—or no schools at all.

If experience teaches, the United States has had some profitable lessons in how—and how not — to desegregate public schools and colleges. The years since 1954 have seen drawn-out court fights, a bewildering succession of state and local maneuvers, rare cooperative effort, and occasional violence.

Is there a pattern of progress? Can past successes—and failures—be used to guide a more harmonious future transition?

Basic Ingredients Clear

In 1954, little was predictable, but in 1961 certain basic ingredients of almost any integration situation in the South are knowable. The courts, the local and state authorities, and unofficial groups on both sides of the issue are in positiion now, with cooperative effort, to control these elements and avoid strife.

Soon after the court's decision the border state school districts began to desegregate. The now-familiar reactions appeared: resistance by white parents and students; the presence of fomenters of hate and violence, often from "outside"; the gap in the level of learning between white pupils and Negro pupils.

With some exceptions, the desegregation process in border state areas went forward with reasonable speed. in areas such as St. Louis or Washington, D.C., where there were many low-income, poorly housed Negroes there were student strikes and other forms of resistance. But this soon subsided, for it did not reflect a widely held public attitude.

In 1955, after a year of speculation on what course it would take, the Supreme Court set the pace and named the chief instrument for desegregating the South's schools. The federal district court was to be the instrument, and desegregation was to take place "with all deliberate speed."

What Has Been Done?

After six stirring years, the record shows:

● Of 3,000,000 Negro public school students in the elementary and high schools of 17 Southern and border states, including the District of Columbia, 6.3 per cent —about 189,000—were attending integrated schools at the start of the 1960-61 school year.

● There has been nothing beyond "token" integration in Southern schools, so that for the vast majority of Negro pupils the situation is practically unchanged, even in "integrated" districts.

● About 50 cases are now in the federal court hopper, a machinery which appears to be picking up speed as prior decisions provide prototypes of action.

The nation has barely topped the first rise on the road to school desegregration. For those who are pushing ahead, and for those who are trying to erect barriers, past patterns provide a portent of the future.

SUPREME COURT UPHOLDS UNIONS AGAINST N. L. R. B.

It Upsets Board's Ruling That Contracts Illegally Force Membership

MAILERS' PACTS BACKED

New York Printers' Local and California Teamsters Win on Agreements

By ANTHONY LEWIS
Special to The New York Times.

WASHINGTON, April 17—A series of decisions by the National Labor Relations Board designed to prevent the compelling of union membership was struck down today by the Supreme Court.

The court disposed of five major labor cases that will affect dozens of others pending in the lower courts and before the labor relations board. The court did the following things in its principal rulings:

¶It upheld, 6 to 2, contracts of the International Typographical Union with newspapers that provided that the foreman of the composing room or mail room must be an I. T. U. member and must handle all hiring in his operation.

¶By the same vote, it upheld a provision in I. T. U. contracts that makes the I. T. U. "general laws" applicable unless in conflict with Federal or state laws.

¶By the same vote, it held there was nothing illegal in bargaining agreements that provide that casual workers, both union and nonunion, be hired through a union-operated hiring hall.

¶It killed, 7 to 1, an N. L. R. B. ruling making labor and management refund to employes all union dues collected under an agreement found to constitute an illegal closed shop.

Douglas Writes Opinion

Justice William O. Douglas wrote the opinion of the court in all the cases. There was an eight-man court because Justice Felix Frankfurter took no part in the decision.

Two cases settled long disputes over standard contracts sought by the typographical union. The first of these involved the New York Mailers' Union 6, which is affiliated with the I. T. U., and The New York Daily News and The Wall Street Journal.

The contract specified that mail room foremen must be members of the I. T. U. and must do the hiring. The N. L. R. B. had ruled that the foremen clause was a coercive device to make sure that only union members were hired and that it was thus a violation of the Taft-Hartley Law.

Justice Douglas wrote today that the contract said no foreman should be desciplined by the union for carrying out the publisher's instructions, and he concluded that the foreman remained the employer's agent despite his union membership.

Second, Justice Douglas said the court would "not assume" that the foremen clause would produce discrimination in favor of union members in the absence of actual proof of discrimination. The N. L. R. B. was thus left free to bring a case to show that a foreman actually had refused to hire nonunion men.

Another clause in the New York Mailers' contract on the applicability of the "general laws" of the I. T. U., provided at the time that only I. T U members should perform work under a contract.

Provision Since Dropped

Justice Douglas said today that workers could be trusted to understand that the Taft-Hartley Law made this closed shop provision of the general laws inoperable. Since the case was brought, the I. T. U. has removed this provision from it

The two dissenters on the first two rulings were Justices Tom C. Clark and Charles E. Whittaker.

Another I. T. U. case involved two locals of printers and The Worcester Telegram and Haverhill Gazette in Massachusetts. The locals struck the papers to enforce demands for the foremen clauses and general laws clauses in their new contracts.

The N. L. R. B. had found the strikes illegal. It rested on its position that the clauses tended to coerce union membership and on the further ground, regarding the foremen clause, that the Taft-Hartley Law forbide unions to coerce employers in their selection of their representatives for adjustment of grievances.

The Supreme Court reversed the N. L. R. B. by 6 to 2 on the general laws clause. But the court was divided, 4 to 4, on the the other point. The effect was to affirm a First Circuit Court decision that it was illegal to strike for the foremen clause.

Two companion cases concerned a contract between a local of the International Brotherhood of Teamsters and the California Trucking Associations. The agreement provided that casual employes be hired on the basis of seniority,

The agreement went on to specify that the union maintain seniority lists, rating a man irrespective of union membership. The union supplied casual employes from these seniority lists through a hiring hall.

The N. L. R. B. found the provision illegal, as tending to coerce union membership. It did so under what is known as the Mountain Pacific Doctrine, adopted in 1958.

The Mountain Pacific Doctrine held that a hiring hall managed by a union could be legal only if certain protective measures were taken. Among these was a right for the employer to reject anyone referred by the union.

Justice Douglas said that the N. L. R. B. had effectively tried to rewrite the Taft-Hartley Act, which does not ban hiring halls. He said the provision promising seniority ratings regardless of membership made the contract not illegal.

The opinion again left the board free to bring a case if it had proof that a hiring hall had been used to discriminate against a nonunion man.

Justices Clark and Whittacker again dissented.

The last case raised what is known as the labor board's Brown-Olds Doctrine, which provides that when a closed shop is uncovered, employes must be reimbursed for all union dues collected since six months before the complaint was filed.

Justice Douglas said that this was a penalty, which the board had no power to inflict. The dissenter was Justice Whittaker.

Dominick L. Manoli argued the two typographical union cases for the N. L. R. B. John R. Schoemer Jr. of New York represented the New York publishers and Gerhard Van Arkel of Washington the I. T. U.

Greenberg makes first argument

WASHINGTON— Do police have the right to arrest student sitdown demonstrators in the absence of any request for such action by owners of the affected establishments?

That appeared to be the main point at issue Wednesday and Thursday as the Supreme Court began consideration of the first of a long series of sitdown appeals.

Pointed questions posed by Chief Justice Earl Warren and Associate Justices Hugo Black, Felix Frankfurter, Charles Whittaker Potter Stewart and John Marshall Harlan led observers to believe the court would rule police do not have this authority.

THE CASES, Briscoe, Garner and Hoston vs State of Louisiana were argued for the NAACP by 36-year - old Jack Greenberg, making his first appearance as successor to Thurgood Marshall as chief counsel for the NAACP Legal Defense and Educational Fund.

Representing Louisiana was John F. Ward Jr., an assistant local attorney general.

Involved was the arrest and conviction at Baton Rouge of 38 Southern University students, who were fined $100 and given 30-day sentences for sitdown demonstrations at a bus station, a drug store and a variety store.

* * *

GREENBERG, assisted by Mrs. Constance Baker Motley of NYC, A. P. Tureau of New Orleans, James M. Nabrit 3rd and William Coleman Jr. of Philadelphia, argued that the students were arrested purely on the ground that their mere presence at lunch counters reserved for whites constituted a breach of the peace.

He said Louisiana really used its power in an effort to preserve segregation and contended the record supported no breach of the peace as charged by the state.

Greenberg was interrupted several times by the justices who wanted to know why the students were arrested if no one, including the management of the lunch counters, objected to their sitting in the establishments.

But the full barrage of the court's questions was levelled at the Louisiana assistant attorney general.

"IF WE HAD allowed these demonstrations to have continued;" Ward argued, "there's no doubt in my mind that violence would have occurred."

"I respect your mind but your mind is not in the record," snapped Justice Felix Frankfurter.

Mr. Frankfurter further wanted to know how the court could assume that violence rather than acquiescence to the students' wish to be served would have resulted from the demonstrations.

He added that in many Southern communities the desegregation of lunch counters had followed similar sitdown demonstrations.

* * *

CHIEF JUSTICE WARREN raised the point as to what position Louisiana police would take at a church. He asked "if a colored person was in a white church praying in violation of customs and nobody objected, could police lawfully come in and arrest the man on his knees for disturbing the peace?"

Ward, plainly showing annoyance with the many queries posed by the court, argued that the situations were not alike.

There would be less likelihood of violence in a church, he contended. He opined that police would exercise their discretion to intervene when violence intervenes.

"Is there anything in the record..to indicate that the police were exercising such discretion?" asked Warren.

* * *

WARD THEN insisted the students were illegally on private property and compared their action to the sit down strikes of the Nineteen Thirties.

But Justice Hugo Black refused to accept that argument. He suggested that telling people they would not be served was different from ordering them out.

Justice Charles Evans Whittaker said, "You've invited me in and you've never canceled the invitation. I frankly don't see a breach of peace in that."

* * *

JUSTICE POTTER STEWART disputed Ward's contention that police were justified in their fear that the demonstration would lead to violence.

"There's a difference, isn't there between going to a place to watch for and prevent violence and arresting these people?"he asked.

Justice Black drew a laugh from the full chamber when he suggested to the Louisiana official that the only "disturbance of the peace I see in this case was caused by the police."

Later, Justice Black agreed with Mr. Greenberg that it was a "strained inference" to say that refusing the students service amounted to an order for them to leave.

* * *

CHIEF JUSTICE WARREN agreed with Justice Black that the real reason management of the establishments had not ordered the students to leave was fear of loss of colored patronage at other departments in the stores.

"If they don't say get out or stay out because they want the colored people's business, should the police come in and make arrests?" Black asked.

Chief Justice Warren added that since the students could have failed to interpret the refusal of service as an order to leave, they are entitled to the benefit of the doubt in a criminal proceeding.

Justice Frankfurter wanted to know why the Louisiana supreme Court passed on facts in the case when the constitution forbids the Supreme Court from passing on facts on appeal.

* * *

AT ONE POINT during his argument, Mr. Greenberg referred a question posed by Justice Frankfurter to William Coleman for reply.

The question dealt with a point of law pertaining to the Girard case, a desegregation suit involving a Philadephia orphanage.

Mr. Coleman readily ofered an answer and Justice Frankfurter said:

"I respect Mr. Coleman's memory and his legal ability."

Mr. Coleman, a Harvard law graduate, once served as Justice Frankfurter's law clerk.

* * *

COURT OBSERVERS were surprised that Louisiana's Attorney General Jack P. F. Gremillion had left the argument of such an important case to an assistant.

"It seems that the attorney general has reached the point where he likes to drop the load on Ward," said an observer after the hearing.

Clarence Mitchell, AFRO columnist, who heads the NAACP's Washington Bureau said of the hearing: "I think everything went off well for our side."

Among the spectators in the courtroom were Roy Wilkins, NAACP executive secretary, and two of the student demonstrators, John Johnson of Cullen, La., and Kennth L. Johnson of Baton Rouge, La.

OCTOBER

SUPREME COURT HEARING ON THE APPEAL OF SIT-IN CASES

MRS. CONSTANCE MOTLEY, JACK GREENBERG
Supreme Court impressed by NAACP argument

Supreme Court Hears Arguments on 'Sit-Ins'

By MIRIAM OTTENBERG
Star Staff Writer

Justices of the Supreme Court, taking their first look at "sit-ins" and demonstrations in the South, yesterday centered their questioning on whether the mere presence of the demonstrators at Baton Rouge, La., lunch counters disturbed the peace.

Jack Greenberg, recently appointed general counsel of the NAACP Legal Defense and Educational Fund, said 16 students were arrested solely because they were Negro and that the police took the initiative in ordering them out and arresting them when they refused to leave.

John F. Ward, jr., assistant district attorney of the Parish of East Baton Rouge, argued that racial tensions in Baton Rouge at the time gave the police the right to move in to avert the violence that could occur from these demonstrations.

Justice Douglas, after listening to Mr. Greenberg, commented that he was arguing that if there was a disturbance of the peace it was by the police and not by the students. Mr. Greenberg agreed.

Justice Whittaker asked Mr. Greenberg if he contended that where a storeowner ordered customers out and they refused to leave it might be a breach of the peace, but if the storeowner did not demand that they leave, it would be a different situation. Mr. Greenberg said that was his position and that the students were not ordered out by the storeowner in these cases.

"They were not convicted on evidence that they had committed any other act of disturbing the peace," Mr. Greenberg said. "They were convicted for their mere presence at counters reserved for white people."

Mr. Greenberg contended that where a policeman initiated an arrest because he saw a Negro at a white lunch counter, he violated the Fourteenth Amendment to the Constitution because his action was State action to enforce racial discrimination.

Mr. Ward argued that the issue actually before the court involved whether a private property owner still has the right to admit or deny access to his property and restrict service to those admitted.

Justices Black and Frankfurter both asked what would happen if the storeowners had no objection to the presence of the Negroes at the counters.

There for Demonstrations

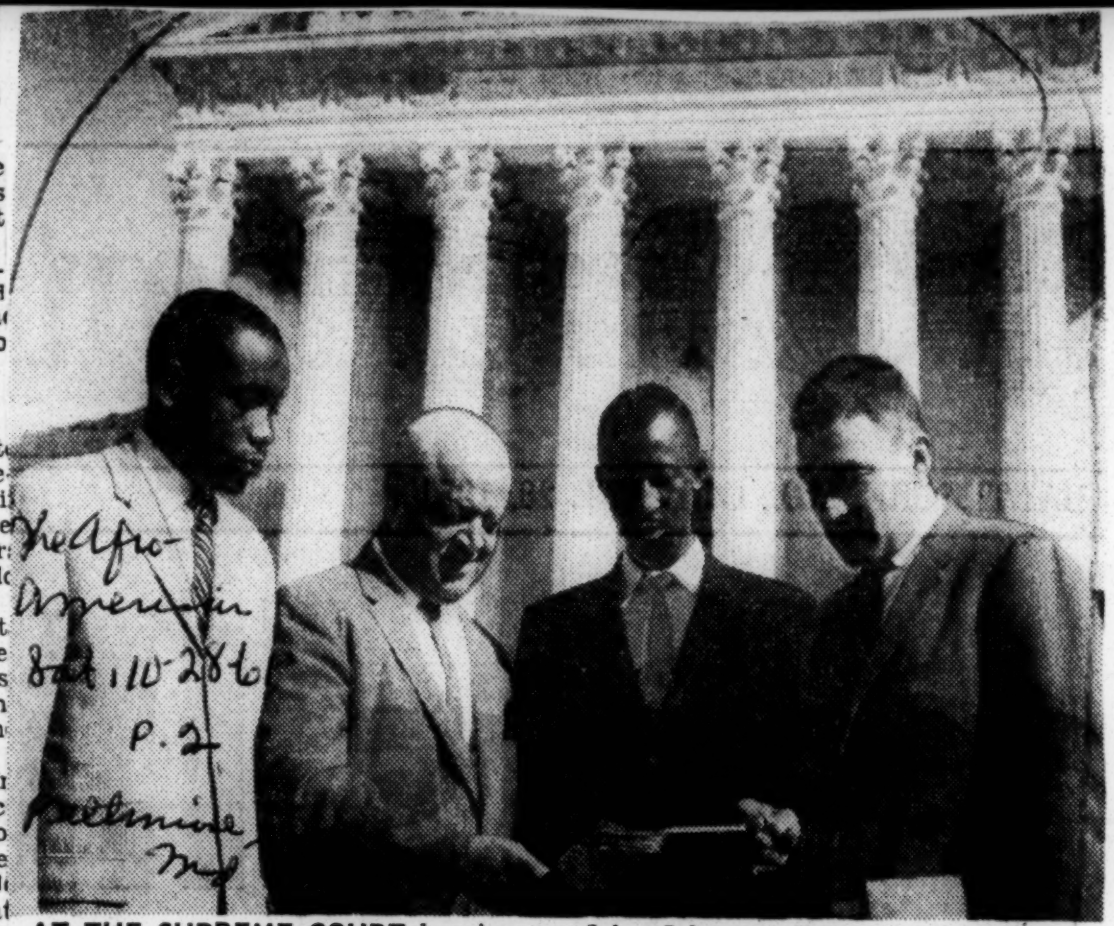
Mr. Ward said that the State cannot pass a law to bar Negroes from private property if the owner wants them there but in these cases the owners clearly indicated they would not give service to Negroes.

He argued that the students were not at the three stores involved for normal business purposes but to carry on demonstrations for a principle the owners did not agree with.

The justices questioned Mr. Ward closely on where the record showed any threat of violence. Justice Frankfurter wanted to know how he could leap to the conclusion that there would be a "rumpus" from the presence of the students.

Mr. Ward said the police had knowledge of the possibility of violence. Justice Frankfurter said it did not get in the record of the case.

Chief Justice Warren wanted to know where in the case the students admitted that they were on the premises for unlawful purposes or were doing something unlawful.



AT THE SUPREME COURT hearing on the appeal of the sit-in cases of Louisiana, in Washington last week, were two of the Southern University students convicted in the cases. Shown talking with two of the attorneys in the cases, they are, from left: John Johnson, Cullen, La.; Attorney A. P. Tureaud, New Orleans; Kenneth Johnson, Columbia, S.C., and Attorney Jack Greenberg, chief counsel of the NAACP Legal Defense and Educational Fund, New York City. Mr. Greenberg presented the argument.

12d 1961

NAACP Case Speedup Ordered

Birmingham Post-Herald

P. 1

BY JERRY T. BAULCH

WASHINGTON (AP)—The Supreme Court acted Monday to speed up a legal test of a five-year-old ban on operation of the National Association for the Advancement of Colored People in Alabama.

The court said that unless the state courts go ahead with a trial on the issues within a reasonable time—no later than next Jan. 2—the U.S. District Court in Montgomery, Ala., shall hear the case.

Involved is a state court order which the NAACP says bars it not only from organizational activities in Alabama but prevents it from taking any steps to qualify to do business in the state.

The state court order stems from a 1956 complaint by Alabama's attorney general that the NAACP was doing business in the state without qualifying as an out-of-state corporation.

Turns To Federal Courts

The NAACP turned to the federal courts, it said, because it believed Alabama's state courts never would act on requests for hearings.

Alabama's officials were accused by the NAACP of "procedural maneuvers and deliberate design indefinitely to deprive it of redress."

Monday's decision set aside a ruling by the U.S. Circuit Court of Appeals in New Orleans, La., saying that the matter should be fought out first in Alabama's courts. The Circuit Court also has questioned whether a federal issue was involved.

The Supreme Court told the District Court to maintain jurisdiction and "to take such steps as may appear necessary and appropriate to assure a prompt disposition of all issues involved in, or in connection with, the state action."

Gives No Reason

The court's unsigned order noted that Justice Potter Stewart took no part in the decision. It gave no reason.

In a brief decision day the Supreme Court went through the process of changing its clerk. Chief Justice Earl Warren administered the oath of office to James R. Browning, the outgoing clerk, as a judge of the U.S. Circuit Court in San Francisco. Then Warren swore in the new clerk, John F. Davis.

Browning had been clerk since Aug. 15, 1958. Davis has been second assistant to the U.S. solicitor general.

In other decisions the court:

Refused to hear an appeal by a Negro woman that a Richmond, Va., ordinance requiring persons on the streets to move on when ordered to do so by police is unconstitutionally vague. The woman, Ruth E. Tinsley, 58, was fined $10 for refusing to move along during picketing of a department store.

Granted an appeal to William Presser, head of the Teamsters Union in Ohio, from his conviction of trying to obstruct the work of the Senate Rackets Investigating subcommittee.

Agreed to hear again a dispute over use of salmon traps by Indians in Alaska. Involved is a state ban on such traps and an Interior Department order authorizing them at the Indian villages of Kake, Angoon, and Metakatla.

The appeal by Presser centers on an incident that got wide attention at the time. He was charged with mutilating an invoice which contained the names of eight persons who were to receive $100 champagne buckets for Christmas in 1955.

Presser's appeal contends he was denied a fair trial by "misconduct" of government counsel.

SUPREME COURT

State Ordered To Speed Trial Of NAACP Ban

The Montgomery Advertiser

Tues. 10-24-61

Montgomery, Ala.

WASHINGTON (AP)—The Supreme Court acted Monday to speed up a legal test of a five-year-old ban on operation of the National Association for the Advancement of Colored People in Alabama.

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UNSIGNED ORDER

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NAACP wins court round in state case

The Birmingham News

Mon. 10-23-61

WASHINGTON, Oct. 23—(AP)—The National Association for the Advancement of colored people won a round in the Supreme Court today in its battle against an Alabama order the association says bars it from activities in that state.

Acting without hearing arguments, the Supreme Court directed that the U. S. District Court in Alabama rule on NAACP's complaint.

Birmingham

NAACP APPEALED to the high tribunal after the U. S. Circuit Court in New Orleans said the complaint should be acted on first by Alabama state courts. The association's appeal said NAACP believed the state courts would never act on requests for a hearing.

A 1956 complaint by the Alabama attorney general led to the litigation. The complaint charged NAACP was doing business in the state without qualifying as an out-of-state corporation. During the dispute the state obtained an order from a state court which NAACP said bars it from organization activities, and also from taking any steps to qualify to do business in Alabama.

The high tribunal issued an order which set aside the ruling of the circuit court and directed the U. S. District Court in Montgomery to try the issues involved.

The Supreme Court's order said that the trial should proceed unless, no later than Jan. 2, Alabama gives NAACP an opportunity to be heard on an association order to dissolve the state court ban, and a hearing on the merits of the order.

The Supreme Court's ruling told the U. S. District Court to keep jurisdictnon over the case and take such steps as may be necessary "to assure a prompt disposition of all issues involved."

Justice Stewart took no part in today's order. He gave no reason.

12d 1961 SUPREME COURT

PRIVATELY OPERATED
RESTAURANT

WILMINGTON, DELAWARE

Segregation Banned In Public Property

The News & Courier Charleston, S. C.

mrs. 4-18-61

WASHINGTON (AP) — The Supreme Court laid down Monday another ban on racial discrimination in publicly owned facilities. It applied to a restaurant in Wilmington, Del.

The restaurant, operated by Eagle Coffee Shoppe Inc., is in an off-street parking building. The building is owned and operated by the Wilmington Parking Authority, a state agent, and the restaurant is leased from the authority.

In August, 1958, William H. Burton, a Negro member of the Wilmington City Council parked his car in the garage and sought service in the restaurant. He was refused.

The Delaware Supreme Court ruled the restaurant acted in a purely private capacity and for that reason was beyond the scope of the equal protection clause of the 14th Amendment.

The U. S. Supreme Court voted 6-3 to reverse the Delaware Supreme Court. Justice Tom C. Clark, who spoke for the court, said the restaurant is operated as a part of a public building, indicating state participation and involvement in discriminatory action.

His opinion said: "It is irony amounting to grave injustice that in one part of a single building, erected and maintained with public funds by an agency of the state to serve a public purpose, all persons have equal rights, while in another part, also serving the public, a Negro is a second-class citizen, offensive because of his race, without rights and unentitled to service."

Justice Potter Stewart wanted to go further and strike down a Delaware law which he said is constitutionally invalid as construed by the Delaware Supreme Court.

The law permits a restaurant proprietor to refuse to serve "persons whose reception or entertainment by him would be offensive to the major part of his customers."

Justices Felix Frankfurter, John M. Harlan and Charles E. Whittaker dissented. They would have returned the case to the Delaware Supreme Court for clarification as to the precise basis of its decision.

Supreme Court Rules Against Bias At Restaurant In State Facility

Case Originated In Delaware

From Wire Dispatches

Washington, April 17.—The Supreme Court laid down Monday another ban on racial discrimination in publicly owned facilities. It applied to a restaurant in Wilmington, Del.

The restaurant, operated by Eagle Coffee Shoppe, Inc., is in an off-street-parking building. The building is owned and operated by the Wilmington Parking Authority, a State agent, and the restaurant is leased from the authority.

In August, 1958, William H. Burton, a Negro member of the Wilmington City Council, parked his car in the garage and sought service in the restaurant. He was refused.

State Held Involved

The Delaware Supreme Court ruled the restaurant acted in a purely private capacity and for that reason was beyond the scope of the equal-protection clause of the 14th Amendment.

The United States Supreme Court voted, 6 to 3, to reverse the Delaware Supreme Court. Justice Tom C. Clark, who spoke for the court, said the restaurant is operated as a part of a public building, indicating State participation and involvement in discriminatory action.

In another ruling the Supreme Court held that the National Labor Relations Board has gone too far in restricting the operations of union hiring halls under the Taft-Hartley Act.

Use Union Service

Under the system, common in the maritime industry and building trades, employers hire workers through a union dispatching service.

The board has held repeatedly that hiring-hall agreements are illegal unless there is a specific guarantee of equal treatment for nonunion job applicants.

Justice William O. Douglas spoke for the court majority in two cases overturning board decisions.

Douglas said there is "no express ban of hiring halls" in the Taft-Hartley Law and "those who add one, whether it be the board or the courts, engage in a legislative act."

HIGH COURT VOIDS CAFE'S NEGRO BAN

Holds Private Restaurant on State Land in Delaware Cannot Refuse Service

Special to The New York Times.

WASHINGTON, April 17—The Supreme Court held today that a privately operated restaurant situated in a publicly owned parking garage in Wilmington, Del., could not refuse to serve Negroes.

Six Justices agreed on that result. The three others thought the case should have been sent back to the Delaware Supreme Court for clarification of its views on state law.

The decision is a significant one because of the light it throws on the established doctrine that only "official action" is covered by the Fourteenth Amendment. The Constitution does not prohibit racial discrimination by private persons or enterprises.

The court concluded that the Government of Delaware was sufficiently involved in this private enterprise, the restaurant, to bring it under the Constitution. In the view of observers here, the court broke at least some new ground in reaching that conclusion.

Justice Tom C. Clark wrote the opinion of the court. He was joined by Chief Justice Earl Warren and Justices Hugo L. Black, William O. Douglas and William J. Brennan Jr.

A separate concurring opinion, resting on quite different grounds, was filed by Justice Potter Stewart. Dissents suggesting that the court should have obtained clarification from Delaware were written by Justices Felix Frankfurter and John M. Harlan, the latter joined by Justice Charles E. Whittaker.

The restaurant involved is the Eagle Coffee Shoppe. It was built in 1957 in space leased from the Wilmington Parking Authority, a state agency. The authority leased space to this and other businesses to help cover the costs of its garage.

In August, 1958, William H. Burton, a Negro member of the Wilmington City Council, parked his car in the garage and walked into the restaurant. It would not serve him. He sued in the state courts.

Private Nature Stressed

The Delaware Supreme Court ruled against Mr. Burton, saying the Eagle Coffee Shoppe was a "purely private" business with no constitutional obligation to serve him. The court also mentioned a state law that allows a restaurateur to refuse service to presons who would be "offensive to the major part of his customers."

Justice Clark's opinion did not lay down any one formula for deciding that the restaurant was covered by the Constitution. Rather he mentioned a number of factors that, taken together, he said, added up to "official action."

He noted that the garage building was publicly owned and that the commercial leases were an "indispensable" part of the financing plan. Justice Clark said:

"Profits earned by discrimination not only contribut to but are indispensable elements in the financial success of a governmental agency."

Another point made in the opionion was that the restaurant and the garage benefit each other, one drawing patrons for the other.

All this, Justice Clerk said, "indicates that degree of state participation and involvement in discrriminatory action which it was the design of the Fourteenth Amendment to condemn."

The opinion went on to observe that the Parking Authority could have written into the lease with the Eagle Company a requirement that therestaurant avoid discrimination.

"But no state may effectively abdicate its responsibilities by either ignoring them or by merely failing to discharge them whatever the motive may be," Justice Clark said.

"By its inaction, the authority, and through it the state, has not only made itself a party to the refusal of service, but has elected to place its power and prestige behind the admitted discrimination.

"The state has so far insinuated itself into a position of interdependence with Eagle that it must be recognized as a joint participant."

Justice Clark cautioned that nothing said in the opinion was intended to provide a "readily applicable formula" for determining the scope of the Fourteenth Amendment. He said the court was deciding only that property leased by a state under these specific circumstances was covered by the amendment.

Justice Stewart's concurrence relied on the Delaware statute allowing restaurants to refuse to serve persons offensive to their clientele.

COURT STRIKES AT RACIAL BAN

Cafe in Publicly Owned Facility Involved

By KARL R. BAUMAN

WASHINGTON (AP)—The Supreme Court laid down Monday another ban on racial discrimination in publicly owned facilities. It applied to a restaurant in Wilmington, Del.

The restaurant, operated by Eagle Coffee Shoppe Inc., is in an off-street parking building. The building is owned and operated by the Wilmington Parking Authority, a stage agent, and the restaurant is leased from the authority.

In August, 1958, William H. Burton, a Negro member of the Wilmington City Council parked his car in the garage and sought service in the restaurant. He was refused.

The Delaware Supreme Court ruled the restaurant acted in a purely private capacity and for that reason was beyond the scope of the equal protection clause of the 14th Amendment.

DECISION REVERSED

The U.S. Supreme Court voted 6-3 to reverse the Delaware Supreme Court. Justice Tom C. Clark, who spoke for the court, said the restaurant is operated as a part of a public building, indicating state participation and involvement in discriminatory action.

His opinion said: "It is irony amounting to grave injustice that in one part of a single building, erected and maintained with public funds by an agency of the state to serve a public purpose, all persons have equal rights, while in another part, also serving the public, a Negro is a second-class citizen, offensive because of his race, without rights and unentitled to service."

Justice Potter Stewart wanted to go further and strike down a Delaware law which he said is constitutionally invalid as construed by the Delaware Supreme Court.

REFUSED TO SERVE

The law permits a restaurant proprietor to refuse to serve "persons whose reception or entertainment by him would be offensive to the major part of his customers."

Justices Felix Frankfurter, John M. Harlan and Charles E. Whittaker dissented. They would have returned the case to the Delaware Supreme Court for clarification as to the precise basis of its decision.

Clark seemingly went to some pains to keep the ruling from being interpreted more broadly than he intended it.

He said, for example, the conclusions drawn from the facts and circumstances of the Burton case "are by no means declared as universal truths on the basis of which every state leasing agreement is to be tested.

He said that a "multitude of relationships might appear to some to fall within the 14 Amendment's embrace." But, he added, it must be remembered that cases under it "can be determined only in th framework of the peculiar facts or circumstances present."

IN WIDE VARIETY

In past actions the court has banned racial discrimination in a wide variety of publicly owned facilities. In addition to public schools, discrimination has been banned at municipally owned golf courses, parks, swimming pools and beaches and an outdoor tseater.

In another unanimous ruling Monday, the court held a state cannot deny a convict the right to seek his liberty through a habeas corpus action simply because he lacks the required filing fee.

The ruling was given in the cases of two Iowa convicts. They sought to win release from prison by habeas corpus proceedings. They were told they could not bring the actions unless each paid a $4 filing fee.

In one of a series of rulings in labor cases, the court held 8-0 that the union hiring hall is not outlawed by the Taft-Hartley Act.

The ruling concerned a collective bargaining agreement between the Teamsters Union and California motor truck operators. It arose when a union member got a job without going through the hiring hall and was fired upon the union's demand.

The National Labor Relations Board held the hiring hall provision of the agreement was illegal.

Eating Places On City Property Must Serve All

WASHINGTON. — (UPI) — The Supreme Court ruled Monday that a Wilmington, Del., restaurant which leases space from a local government agency must serve Negroes.

Justice Tom C. Clark handed down the unanimous decision.

The eating place is the Eagle Coffee shoppe, located in a public garage facility operated by the Wilmington parking authority, an agency established under state law.

William H. Burton, a Wilmington Negro, started the lawsuit after unsuccessfully trying to order a meal in the coffee shoppe. He sued on behalf of all Negroes in his circumstances.

Clark emphasized that the opinion does not set forth "universal truths" on the basis of which every state leasing agreement is to be tested.

"Owing to the very "largeness' of government," he said, "a multitude of relationships might appear to some to fall within the (14th) amendment's embrace, but that, it must be remembered, can be determined only in the framework of the peculiar facts or circumstances present."

"What we hold today is that when a state leases public property in the manner and for the purpose shown to have been the case here, the proscriptions of the 14th amendment must be complied with by the lessee as certainly as though they were binding covenants written into the agreement itself," the opinion stated.

Burton won a no-discrimination order in the Wilmington court of chancery but this was reversed Jan. 11, 1960, by the Delaware supreme court. This ruling, in turn, was reversed Monday.

The Justice department participated in the case on Burton's behalf.

Court Lays Down Segregation Ban

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Clark's Opinion

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Three Dissented

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In past actions, the court has banned racial discrimination in a wide variety of publicly owned facilities. In addition to public schools, discrimination has been banned in municipally owned golf courses, parks, swimming pools and beaches and an outdoor theater.

Habeas Corpus Ruling

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The ruling was given in the cases of two Iowa convicts. They sought to win release from prison by habeas corpus proceedings. They were told they could not bring the actions unless each paid a $4 filing fee.

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The ruling concerned a collective bargaining agreement between the teamsters union and California Motor Truck Operators. It arose when a union member got a job without going through the hiring hall and was fired upon the union's demand.

The National Labor Relations Board held the hiring hall provision of the agreement was illegal.

SUPREME COURT REJECTS, TALLAHASSEE, FLORIDA
SIT- IN APPEAL

12d 1961

SUPREME COURT

Tallahassee Sit-Ins

The Miami Herald

Denied Court Appeal

No Reason Given by Jurists

Miami, Fla.
Dues. 3-7-61

WASHINGTON (AP) — The Supreme Court Monday unanimously refused to act on an appeal by 12 persons arrested during two "sit-in" demonstrations at a white lunch counter in Tallahassee.

It was the first time the high tribunal had been asked to rule on a case growing out of a wave of sit-in demonstrations in the South.

The court gave no reason for its refusal to act on the appeal.

It merely listed the case among a group of appeals in which it denied hearings.

The 12 persons who appealed had sat at a counter in an F. W. Woolworth Co. store in Tallahassee.

Eight of those who appealed are Negroes. The others are white persons. Each was sentenced in Tallahassee Municipal Court to pay $300 fine or serve 90 days in jail. The demonstrations occurred Feb. 20 and March 12, 1960.

In the Tallahassee case, the 12 persons arrested questioned whether their arrest and convictions constituted "unlawful interference" with their freedom of speech and liberty of contract (right to do business with the establishment) in violation of constitutional guarantees of due process and equal protection of the laws.

Their appeal for a Supreme Court hearing stated:

"The legal, moral and social issues raised by the cases at bar are of nationwide importance. In recent months similar 'sit-in' incidents have occurred and they continue to occur, in communities throughout the South, and hundreds of Negroes and their white sympathizers have been arrested and convicted as consequence."

The city of Tallahassee in a brief opposing any Supreme Court hearing for the 12 asserted there was no racial question involved in the case.

The brief said that if the 12 had complied with a command by the mayor to immediately and peaceably leave the lunch counter there would have been no arrests.

The brief said the mayor of Tallahassee "had good reason to believe that the continued assembly of the petitioners (the sit-in by the 12) would cause a riot."

The opinion of the mayor, the brief said is supported by the opinion of one of the group, a white person, who testified, "there was an air of violence there."

In Miami an official of the American Civil Liberties Union said the group was "disappointed" that the high court declined to hear the Tallahassee case. He reported the ACLU will seek to present a similar case to the tribunal.

"We have another case — the Shell City case — which we hope to try before the court," commented Howard Dixon, ACLU Florida chairman.

May Take Another Look At Sit-Ins

WASHINGTON — (UPI) — The Supreme Court is expected to take another look soon at racial sit-in demonstrations despite its rejection of an appeal by student demonstrators in Tallahassee, Fla.

Three more appeals from Baton Rouge, La., are on the court's docket and may be acted on March 20. Appeals from other states also are on the way to the high court.

Eventually, the court seemed bound to establish legal guidelines for handling the widespread Negro and white demonstrations at privately operated lunch counters in the South.

The court Monday without comment denied review to a group of Negro students and to a white group. The demonstrators were convicted of disorderly conduct after refusing to leave a lunch counter in an F. W. Woolworth's store in Tallahassee. There was a dispute between the parties over whether the appeals should have come to the U.S. Supreme court, or first should have gone farther in state courts.

This factor may have caused the Supreme court to deny review. But the justices themselves gave no reason.

Court Rejects Appeal Of Sit-In

Convictions In Tallahassee Lunch Counter Case

Will Stand

From The Commercial Appeal
Washington Bureau

WASHINGTON, March 6. — The Supreme Court Monday refused to consider the appeal of eight Negroes and four whites convicted of violating a city ordinance during sit-in demonstrations at a Woolworth Store lunch counter in Tallahassee, Fla.

Dues. 3-7-61

The court, by denying certiorari, let stand Municipal Court convictions and penalties calling for the payment of $300 fines or 60 days in jail by each defendant, plus 30-day suspended jail sentences.

P. 13

The action was the first by the Supreme Court in the wave of sit-in demonstrations in the South and elsewhere which are aimed at eliminating segregation.

Louisiana Case Awaited

The six Negroes entered the Woolworth Store Feb. 20, 1960, and occupied seats at the lunch counter. A waitress told them they would not be served and asked them to leave. They refused. The management then closed the lunch counter. The Negroes remained seated. The manager notified the police.

The mayor of Tallahassee, accompanied by a police officer, arrived and asked the Negroes to disperse. They again refused. The mayor then had them arrested.

The incident involving the four whites occurred March 12, 1960. They were not refused service, but refused to comply with the demand of police to leave their seats.

All of the defendants later were convicted of violating a city ordinance which prohibits acts of disorderly conduct, breaches of the peace, and unlawful assembly. The convictions were upheld by higher courts in Florida.

Still pending before the Supreme Court, and subject to cinsideration later, is another sit-in case from Baton Rouge, La., which observers believe may find more favor with the court.

It involves three separate incidents in which Negro students entered restaurants which served both whites and Negroes but in separate sections.

The establishments were a restaurant, a bus station lunch counter, and a variety store lunch counter. In each instance the Negroes took seats in the sections reserved for whites, refused to move to the Negro section, and were arrested.

Points Are Raised

They were convicted of violating a Louisiana law which prohibits various acts as well as "any other act" committed "in such manner as to unreasonably disturb or alarm the public." They were directed to serve four months in jail, or to serve one month and pay $100 fines plus court costs.

Points raised in the appeal to the Supreme Court include absence of evidence the Negroes disturbed the peace, the "vagueness" of the Louisiana law, and an argument that he law, as applied in the case, violated the due process and equal protection guaranties of the Fourteenth Amendment.

Reject Sit-In Appeal

The Call
Kansas City, Mo.
Fri. 3-10-61

WASHINGTON (UPI) — The Supreme Court Monday rejected an appeal of Negro and white sit-in demonstrators arrested in Tallahassee, Fla.

The brief order left standing their convictions and upheld the fines or jail sentences given them for disorderly conduct.

The court acted on appeals by two groups of students, who were arrested for disorderly conduct after refusing to leave the lunch counter in the F. W. Woolworth Five and Ten cent store in Tallahassee.

The store sells to Negroes in all departments except the lunch counter.

The mayor of Tallahassee personally instructed police in both instances to arrest the students after they ignored his order to leave. All drew $300 fines or 60 days in jail. The Leon county circuit court affirmed the convictions.

The principal legal argument by the demonstrators was that no arm of the state government may use its power to compel racial discrimination at the behest of a private party.

They relied on the 1948 Supreme Court decision which dealt with real estate covenants designed to preserve all white neighborhoods. The court held these racially restrictive agreements are not enfoceable in court.

In the Tallahassee case, it was argued that the city may not enforce trespass laws which result in racial discrimination.

The students contended that their cases are actually stronger than the real estate cases because the arrests were demanded by third persons, including the mayor, rather than by Woolworth, whose property was involved.

They cited the 14th amendment's guarantee of "due process of law' ' and "equal protection of the laws."

Students named in the first group—all Negro—were Henry M. Steele, William Haywood Larkins, Patricia Gloria Stephens, Priscilla Gwendolyn Stephens, Angelina Nance, Barbara Joan Broxton, John Anglish Broxton and Clement Collier Carney. Their demonstration took place Feb. 20, 1960.

The second group who brought the appeal consisted of white students—Robert K. Armstrong, Roland W. Eves, Derek Spencer Lawler and John J. Poland.

They were arested and tried along with six Negro students from Florida A. and M. university following a demonstration on March 12, 1960. The Negroes did not appeal.

The court order declining to accept the case was issued without comment. Had it been accepted for appeal, it might have established

legal guide lines in such incidents which have occurred throughout the South.

Still pending for court consideration, however, are three similar appeals from individuals arrested in Baton Rouge in sit-in cases.

In another action Monday, the Supreme Court:

—Ruled that three Washington, D.C., men were convicted illegally on gambling charges because police used a one-foot-long eavesdropping device to obtain evidence. The court ruled 9 to 0 that evidence obtained in the case was inadmissable in federal court.

High Court Rejects Its 1st Sit-In Case

The Washington Post
Washington, D. C.
Dec 3-7-61
Page 1

By James E. Clayton
Staff

The Supreme Court has refused to hear the first of the Southern sit-in cases carried to it. It noted its refusal yesterday without comment in a case involving eight Negro and four white students who were arreested last March in Tallahassee, Fla.

The 12 were convicted of disorderly conduct when they refused to leave the lunch counter of an F. W. Woolworth store there after it had refused to serve them. All drew fines of $300 or 60 days in jail.

The Court, as usual, indicated no reason why it refused to hear the case. However, the city of Tallahassee had contended that the 12 did not exhaust all their judicial remedies in the State before carrying the case to the Supreme Court.

The city also told the Court that the 12 were not convicted because they were sitting at a lunch counter that refused to serve them. It said they were convicted because they refused to leave after the Mayor asked them to. The city said the Mayor had good reason to believe that if they stayed at the counter a riot would follow.

However, the Florida Circuit Court, which upheld the convictions, said the store "could serve or not serve any person it chose." Its discrimination against the 12, that Court said, was not unlawful, but their presence there after they were asked to leave was "a wrongful trespass amounting to a breach of the peace."

The Circuit Court in Florida is the final appellate court for most cases arising in municipal courts, as this did. However, the Florida Supreme Court can, and sometimes does, hear cases carried to it from the Circuit Courts. It was the failure of the students to approach that Court that the city said meant they had not exhausted their State remedies.

The effect of the Supreme Court's action is to leave standing the lower court's decision and the convictions, but without any connotation that the Supreme Court approves.

The Supreme Court still has pending before it requests that it review the convictions of several persons convicted in a "sit-in" in Louisiana. Both groups of requests are based on the theory that it is a violation of the 14th Amendment for a state to enforce discrimination by store owners. The Supreme Court has never ruled on this argument.

Other Actions by Court

In other actions yesterday:

STATE TAXATION

By a 6-to-2 vote, the Court upheld a Michigan State tax levied on shares of the Michigan National Bank. The Bank had contended that the tax, which was about $50,000 in 1952, violated an 1864 act of Congress that allows states to tax national banks only if the tax does not discriminate against those banks to the advantage of other monied capital in competition with them.

The Court held, in an opinion by Justice Tom C. Clark, that the tax, which appears discriminatory on its face, does not discriminate in practice. Justice Charles E. Whittaker and William O. Douglas dissented saying the decision unsettles what has been setlled law for 35 years. Justice Potter Stewart did not participate.

CIVIL RIGHTS ACT

The Court sent back for reconsideration a claim by Paul Egan, controversial Mayor of Aurora, Ill., that fellow city officials damaged him when he was arrested in 1958 during a feud with his City Council.

The lower court had dismissed the 4-million-dollar damage case that Egan filed against the officials and the city. The Supreme Court upheld the dismissal against the city, because cities are not liable for damages under the Civil Rights Act, but said Egan's claim against the officials should be reconsidered by the Court of Appeals.

LABOR LAW

The Court agreed to hear arguments on the Government's contention that Courts of Appeal have exceeded their power in modifying orders of the National Labor Relations Board where the parties to the order have consented to it and to its enforcement. Courts of Appeal enforce these orders and have, upon occasion, revised them.

The Court refused to hear a case in which lower Federal courts barred officials of a Philadelphia Teamster local from using union funds to defend themselves in civil and criminal cases that charge th emwith conspiring to defraud the union of large sums of money.

ANTITRUST LAW

The court also refused to hear a case in which the Manchester, N. H., Union Leader Corp. lost a treble damage suit to the Haverhill, Mass., Gazette and a group of New England publishers. The suit was based on discriminatory advertising rates.

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SUPREME COURT

SUPREME COURT REJECTS, TALLAHASSEE, FLORIDA SIT-IN APPEAL

High Court Turns Down Sit-In Case

The News & Courier
Charleston, S. C.
Tues. 3-7-61

WASHINGTON (AP)—In its first action on a Southern lunch counter sit-in case, the Supreme Court Monday refused a hearing to eight Negroes and four whites convicted in a Florida lunchroom demonstration.

They were convicted in Municipal Court in Tallahassee in connection with sit-in demonstrations at a Woolworth store Feb. 20 and March 12 last year. Each received a sentence of 60 days in jail or a $300 fine.

The import of the action was not made clear. The court merely said it would not hear the appeal.

Court observers speculated the refusal may have been based, at least partially, on the fact that the case had not gone through Florida's highest courts. The appeal came here from the Circuit Court for Leon County, which affirmed the Municipal Court.

The Supreme Court now has before it a sit-in case involving 17 Louisiana Negroes. This case has run the full course in state courts. The high court has not yet said whether it will hear arguments in this case.

The Tallahassee demonstrators were convicted under a city ordinance proscribing acts of disorderly conduct, breaches of the peace, and unlawful assembly.

In New York, James Farmer, national dirctor of the Congress of Racial Equality, said he hoped the decision does not mean the court intends to avoid the issues raised by the sit-ins. Farmer's group organized the Tallahassee demonstrations.

The National Association for the Advancement of Colored People said it had no immediate comment.

In a unanimous decision, written by Justice Potter Stewart, the high court staked out a forbidden area in the use of electronic eavesdropping. The decision threw out the conviction of three men accused of operating a big-time Washington gambling house near the State Department.

In the spring of 1958, police here suspected a row house was being used for gambling operations. They gained permission to enter the vacant adjoining row house and used a "spike mike" to listen to what was going on in the house next door.

The instrument was a microphone with a spike about a foot long attached to it, together with an amplifier, a power pack, and earphones. The officers inserted the spike several inches into the wall between the two houses until he hit a heating duct, thus converting the entire heating system into a conductor of sound.

Stewart said the facts in the case did not require the court to "contemplate the Fourth Amendment implications of these and other frightening paraphernalia which the vaunted marvels of an electronic age may visit upon human society."

He said eavesdropping accomplished by means of such a physical intrusion was "beyond the pale of those decisions which . . . held that eavesdropping eccomplished by other electronic means did not amount to an invasion of Fourth Amendment rights."

The Fourth Amendment forbids unlawful search and seizure.

Stewart cited a decision which upheld the use of an electronic device on the wall of a house as a permissible invasion of privacy. He said he found no occasion to re-examine the earlier decision, "but we decline to go beyond it, even by a fraction of an inch."

In other actions Monday the court:

1. Let stand a decision of federal courts in Philadelphia barring use of labor union funds for the payment of legal expenses of accused union officers.

Raymond Cohen and three other officers of Local 107 of the Teamsters Union are under charges of conspiracy to defraud members of the local. A majority of the local's members voted to pay the legal expenses of the accused officers, but nine dissenting members won an injunction in U. S. district court. The Court of Appeals affirmed this.

2. Upheld, 6-2, the Michigan law which imposes a higher tax on shares of stock in national banks than on shares in savings and loans associations. Justice Tom C. Clark, speaking for the majority, said this does not constitute unlawful discrimination against national banks or their shareholders as a class. Justice Charles C. Whittaker wrote a dissenting opinion in which Justice William O. Douglas concurred.

Justice Stewart took no part in the case.

Supreme Court's Actions

Special to The New York Times.

WASHINGTON, May 1—*The Supreme Court took the following actions today:*

CIVIL RIGHTS

Declned to review decisions of the Fifth Circuit upholding the power of the Attorney General to obtain Alabama voting records in investigations of discrimination against Negro voters (Nos. 823-4, Dinkins and Gallion v. Rogers).

CRIMINAL LAW

Held unanimously that Negroes had been systematically excluded from jury service in Dallas County, Ala., despite the calling of a token number (No. 326, Anderson v. Ala.).

Unanimously dismissed as improvidently granted, a writ issued to review a California criminal conviction involving an allegedly coerced confession (No. 95, Atchley v. Calif.).

12d 1961

SUPREME COURT BATON ROUGE-FREEDOM RIDERS

U.S. Court Asked To Rule On Conviction Of Riders

P.4 Jackson Daily News

WASHINGTON (AP) — The U.S. Supreme Court has been asked to rule on the conviction of 16 Negroes arrested after lunch counter sit-ins in Baton Rouge last year.

Inves-12-61

U.S. Solicitor General Archibald Cox, in a brief filed with the court Monday, asked that it reverse the Louisiana Supreme Court. The Louisiana court let the convictions stand when it declined to review the cases.

The Negroes had sought service in lunch counters designated for white only at a drug store, a bus terminal and a variety store.

They were convicted of violating state law against disturbing and alarming the public. Each was sentenced to four months in jail with three months to be suspended with payment of $100 fine.

In the brief filed as a friend of the court preparatory to oral arguments expected in mid-October, Cox asked the Supreme Court for the reversal on four grounds:

1. That there was no evidence tending to prove "essential elements of the only offense charged," thereby violating the due process clause of the 14th Amendment.

Inves-9-12-61

2. That the law under which the Negroes were convicted is "so vague and uncertain as to violate due process."

3. The arrest and conviction of the Negroes was the result of state, not privately, imposed racial discrimination and therefore violates the equal protection clause of the 14th Amendment.

4. The arrest and conviction violated the rights of the Negroes under federal law which prohibits racial discrimination against interstate passengers in restaurants operated as part of a bus service for interstate passengers.

DEC.
FLORIDA NAACP
MEMBERSHIP LISTS

Supreme Court Weighs N.A.A.C.P. Case on Lists

The New York Times
12-6-61 p. 1 col 4

By ANTHONY LEWIS
Special to The New York Times

WASHINGTON, Dec. 5—The Supreme Court considered how far a state may go in investigating alleged Communist infiltration of the National Association for the Advancement of Colored People.

New York N.Y.

Before the court was the contempt conviction of the Rev. Theodore R. Gibson, president of the organization's Miami branch. The Florida courts found him in contempt for refusing to cooperate with the Florida Legislative Investigation Committee.

Mr. Gibson, rector of Christ Protestant Episcopal Church in Miami, was fined $1,200 and sentenced to six months in jail.

The legislative committee was looking into the possibility that the N. A. A. C. P. in Miami had "subversive" members. A committee investigator, J. R. Strickland, testfied that various alleged Communists had been in the organization at one time.

Mr. Gibson was called and asked whether fourteen persons identified as Communists by Mr. Strickland were associated with the organization. After looking at their photographs and hearing their names, Mr. Gibson said no.

Then the committee directed Mr. Gibson to refer to the organization's membership records, of which he had custody, to check his memory on those fourteen names. Hhe was assured that he would not have to turn the membership list over to the committee but could use it only for his own reference.

Refuses to Produce List

Mr. Gibson refused to bring the list to the hearing or to refer to it. He based his refusal on the likelihood that even bringing the list, with a chance of its disclosure, would create great fear of reprisal among the organization's members and injure their constitutional rights of association.

Those facts fall nicely in between two contrasting lines of cases decided by the Supreme Court in recent years.

The court has held that the N. A. A. C. P. ned not turn over its entire membership lists to Southern state officials because the effects of such d isclosure might be repressive.

On the other hand, the Court has held in a series of 5-to-4 decisions that the state and Federal Governments can demand answers to questions about Communist activities. For example, it said New Hampshire could force the Rev. Dr. Willard Uphaus to name suspected Communist guests at World Fellowship, his summer cap.

Robert L. Carter, the N. A. A. C. P.'s general counsel, was pressed by the justices in argument today to distinguish his case from that of Dr. Uphaus.

His principal answer was that the Florida committee had not made a sufficiently persuasive showing o any actual connection between communism and the N. A. A. C. P. to justify a demand for membership lists.

Mark R. Hawes of St. Petersburgh, counsel for the investigating committee, insiste there had been a strong showing and said the court would have to decide this factual question. He noted also that the organization itself, at national conventions, had recognized and taken action against Communist infiltration attempts.

U.S. Supreme Court Is Asked to Protect Dade NAACP Roll

Florida Times Union
12-6-61 p. 2 col 2

Jacksonville, Fla.

WASHINGTON, Dec. 5 (UPI)—The National Association for the Advancement of Colored People asked the Supreme Court today to guarantee the secrecy of the organization's membership rolls in Dade County, Fla.

NAACP attorney Robert Carter told the justices they should give the 1,000-member Dade County list the same protection it gave the organization's rolls in Alabama and Arkansas.

Florida officials argued that the NAACP's adamant stand prevented a legislative committee from determining the possible inroads of communism into the organization.

Attorney Mark Hawes argued for the state that the committee did not want to see the list. He said it merely wanted Chapter President Rev. Theodore Gibson to bring it to the hearing room and check it against a list of suspected Communists in the Miami area.

Sentenced for Contempt

Gibson several times refused to abide by the committee's request and later was cited for contempt by a circuit court, sentenced to six months in jail and fined $1,200. The Florida Supreme Court on Dec. 16 upheld the conviction.

A succession of state committees has looked into possible Communist infiltration of the NAACP since 1956.

Carter said although the situation was different, legal aspects of the case under consideration are the same as those in the Alabama case.

He said if Gibson brought the records to the hearing room, the committee might challenge whether he was telling the truth in checking the list.

If that happened, Carter argued, Gibson might have to turn the list over to the committee to save himself from perjury charges.

"The state must show an overriding interest for the state to intrude on the First Amendment," Carter said. "No such overriding interest has been shown.

Alleges Lack of Evidence

"The interest must be real and not simulated," he said. "In this case we feel that it's simulated. There is no real evidence that there is any Communist infiltration into the organization."

Hawes said the Supreme Court was being asked "to erect a constitutional sanctuary with absolute immunity."

He said there was no argument about the law involved. If there is no evidence of any possible connection between Communists and the NAACP in Dade County, then the high court should reverse the judgment of the Florida Supreme Court, he said.

Hawes said he had no desire to see Gibson in jail. He said he had given Gibson several opportunities to bring the list to the hearing room.

If the Supreme Court upholds the decision, he said, "I will personally recommend to my committee that they recommend to the court that this man's sentence be set aside or reduced."

12d 1961

SUPREME COURT

DEC.
LOUISIANA- FREEDOM RIDERS

High Court Voids 16 'Sit-In' Convictions

Atlanta World 6/

Tues 12-12-61

By CHARLOTTE G. MOULTON

WASHINGTON (UPI) — The Supreme Court decided its first "sit-in" case Monday by overruling the 1960 Louisiana state conviction of 16 Negro lunch counter demonstrators on charges of disturbing the peace at Baton Rouge.

The majority opinion, delivered by Chief Justice Earl Warren, carefully limited grounds for the reversal to denial of due process of law because of lack of evidence. It did not go into broader constitutional issues which may be presented by other "sit-in" convictions in Southern communities.

CORE, the Congress on Racial Equality, praised Monday's ruling as having "historic importance" which may have impact on the conviction of "freedom riders" as well as "sit-in" participants who sought to end racial barriers in restaurants.

Monday's 9-0 high court decision nullified the conviction of 16 Southern University Negro students. They were found guilty of disturbing the peace under a state statute which makes it a crime to "unreasonably disturb or alarm the public." They had been sentenced to 30 days in jail and fined $100.

Atlanta Ga

Warren's opinion said "the undisputed evidence" showed that the police who arrested the 16 students "were left with nothing to support their own opinion that it was a breach of the peace for the students to sit peacefully in a place where custom decreed they should not sit."

Warren emphasized the court's policy of not going beyond the constitutional issues in the case.

However, Justice William O. Douglas in a concurring opinion asserted the court should have gone further in its finding.

"I think . . . the constitutional questions must be reached and that the ymake reversal necessary," he said.

PUBLIC FACILITIES

"Restaurants, whether in a drug store, department store, or bus terminal, are a part of the public life of most of our communities. Though they are private enterprises, they are public facilities in which the states may not enforce a policy of racial segregation."

Justice Felix Frankfurter sided with Warren's thesis of lack of evidence.

Tues 12-12-61

Justice John M. Harlan found the convictions unconstitutional, but on grounds that the state law was "vague and uncertain."

High Court Frees 16 Sit-Ins, Fails to Rule on Louisiana Law

Atlanta Constitution 12/ Tues 12-12-61 Atlanta Ga

By JERRY T. BAULCH

WASHINGTON (AP) — The Supreme Court overturned Monday the conviction of 16 Negro sit-in demonstrators in Louisiana but left unanswered broad constitutional questions raised by the sit-in controversy.

The Congress of Racial Equality quickly hailed the decision as the dawning of a "new day" for Negroes, but officials of Southern states said it would have little effect on hundreds of similar pending cases.

DIDN'T PASS

The attorney general of Louisiana said the high court did not pass on the constitutionality of the state's so-called sit-in law.

Chief Justice Earl Warren, delivering the court's opinion, pointedly confined the unanimous decision to the Constitution's due process clause as applied to the convictions.

He said it was not necessary to consider other constitutional questions raised in the Louisiana cases —freedom of expression and equal protection.

Nor, Warren said, was it necessary to decide in Monday's decision whether a private business owner has the right to serve only whom he chooses, a question Louisiana had raised. He said that in the three 1960 Baton Rouge cases involved, at no time did representatives of the store owners ask the Negroes to leave the "white only" lunch counters.

MAY BE CONSIDERED

These other questions could be touched on if the court agrees to hear Virginia and North Carolina sit-in cases presented to it.

The 16 Negroes, all students of Southern University in Baton Rouge, were convicted under a Louisiana law making it a breach of the peace to "act in such a manner as to unreasonably disturb or alarm the public."

Each was sentenced to four months in prison, with three months to be suspended on payment of $100 fines.

Warren said there was no evidence that the Negroes "disturbed the peace, either by outwardly boisterous conduct or by passive conduct likely to cause a public disturbance."

"The undisputed evidence," he said, "shows that the police who arrested the petitioners were left with nothing to support their actions except their own opinions that it was a breach of peace for the petitioners to sit peacefully in a place where custom decreed they should not sit."

Louisiana had contended that the police were justified in making the arrests because they feared violence might erupt.

In Louisiana, State Atty. Gen. Jack Gremillion said it appeared to him that the Supreme Court overturned the 16 convictions merely on grounds of lack of evidence.

"The constitutionality of Louisiana's so called sit-in laws has not been passed on and so far as the state is concerned, they are valid legislation," Gremillion said.

Gremillion would not say flatly whether arrests will continue under the law. And officials at Baton Rouge would not say—pending a reading of the opinion—whether the 16 Negroes will be retried.

In Little Rock, Arkansas Atty. Gen. Frank Holt said the decision will have no effect on similar cases pending in that state. "It would seem that each sit-in case still stands on its own merits."

The Congress of Racial Equality said 300 "freedom riders" were arrested in Jackson, Miss., under a law word for word like Louisiana's, and that under the decision such arrests should be ended.

Justice William O. Douglas, while agreeing with the majority, went further in a concurring opinion, declaring:

"I do not believe that a state that licenses a business can license it to serve only white or only black or only yellows or only browns."

He said the authority to license a business "for public use is derived from the public" and that "Negroes are as much a part of the public as are whites."

12d 1961

SUPREME COURT

DEC.

SCHOOL RELIGION CASE

Supreme Court Agrees to Rule On Prayer in Public Schools

P. 1 A 4 Thurs. 12-5-61

Washington Post

By James E. Clayton
Staff Reporter

The Supreme Court has agreed to decide whether it is constitutional for public schools to begin their daily sessions with a prayer.

The Justices accepted the question yesterday after it was raised in New York by the parents of nine students who objected to the prayers.

Never before in the running dispute on the proper boundary between church and state has the Court agreed to look at the practices in many public schools of opening each day's classes with Bible reading and a prayer.

Washington Post

The Justices have previously dealt with such problems as the teaching of religious classes on school time and in public classrooms, the transportation of students to parochial schools, and the purchase of books and supplies for students in parochial schools.

Exercises Held Daily Here

The line of separation they have drawn in those cases has left open to dispute the question of Bible reading and prayer. Such exercises are held daily in public schools in the District of Columbia and in many suburban schools.

The New York Court of Appeals, by a vote of 5 to 2, held that a daily prayer is constitutional as long as there is a method by which objecting students can be excused from participation.

The parents of the students, who attend a school at New Hyde Park, N. Y., claim the prayer is an unconstitutional establishment of religion.

In other actions yesterday:

CONFLICT BETWEEN STATES

The Court suggested that some states bring a case directly before it so that an unusual problem involving unclaimed money orders can be solved.

In doing so, the Court upset a Pennsylvania Supreme Court decision allowing that State to take over funds the Western Union Telegraph Co. had collected there on money orders that were never cashed. Pennsylvania acted under an escheat statute that allows the State to claim property that remains without a rightful owner for more than seven years. Western Union had accumulated $45,000 in unclaimed money orders from Pennsylvania when the case was filed.

New York State also claimed the money because Western Union's home office is there. Justice Hugo L. Black pointed out that other states, too, could claim it. He noted that Massachusetts wants the part of the money that was addressed to its residents.

The Court refused to review a decision of the Fifth Circuit Court of Appeals that says a student in a tax-supported college must be given a hearing before the college can expel him for miscouduct.

The case arose when nine Negro students were dropped from Alabama State College. Soon after they participated in sit-ins at Montgomery, Ala.

CONTEMPT OF CONGRESS

The Court agreed to review the convictions of Frank Grumman and Bernard Silber for contempt of Congress. They were convicted for refusing to answer questions asked by a subcommittee of the House Un-American Activities Committee in 1957. Both men were then working at Fort Lee, N. J., in overseas radio communications.

MOTOR CARRIER ACT

By a 6-to-3 vote, the Court overturned the Interstate Commerce Commission's interpretation of the 1957 amendments to the Motor Carrier Act.

The Court said the ICC was wrong when it refused to issue an operating permit to allow J-T Transport Co. to truck the products of the Boeing Airplane Co. The Court said the ICC should have weighed Boeing's "distinct need" for special trucking equipment against the adequacy of the common carriers to meet it.

Also by a vote of 6 to 3, the Court dismissed a case brought by John E. Hodges, who was convicted here in 1957 of a $4950 robbery of Briggs & Co., 6601 Columbia Park rd. Hodges claimed he failed to appeal his conviction because he was not informed of his appellate rights. The Court took the case last year to determine whether Hodges was entitled to a hearing on this claim and dismissed it after argument because the full record showed he had received a hearing.

ANTITRUST

The Justices took jurisdiction of an appeal in a 10-year-old antitrust suit brought by the Government against two Chicago dairies that discriminated in their pricing in favor of chain stores.

A District Court in Chicago dismissed the case on the ground that the dairies, Borden Company and Bowman Dairy Company, had justified their price differentials.

The Justices agreed to hear two cases involving tricky problems of labor law.

One of these is a dispute over whether state courts or the National Labor Relations Board has jurisdiction in disputes involving union picketing of foreign-restricted ships. The New York Court of Appeals said the NLRB has exclusive jurisdiction.

The other case involves the NLRB's decision that a Baltimore company must reinstate seven men it fired in 1959 for leaving their jobs because the machine shop where they worked was too cold.

Supreme Court to Rule On Public School Prayer

New York Herald Tribune P. 25

Thurs. 12-5-61

By The Associated Press

WASHINGTON

The Supreme Court agreed yesterday to consider whether it is constitutional for teachers to lead their pupils in prayer in public schools.

Objections to such a practice were raised by parents of nine children in four schools in New Hyde Park, L. I. They contend it violates the principle of separation of Church and State.

This is the first time the high court has undertaken to answer this highly controversial question, and it is not expected to hear the case until late in the spring.

The appeal relies heavily on previous Supreme Court rulings that (1) outlawed religious instruction on public school property but (2) approved a system of letting students get such instruction elsewhere during school hours.

Begin Day With Prayer

In the New Hyde Park schools the pupils begin their day in the classroom by saying the prayer:

This follows a recommendation to all local school boards made by the New York Board of Regents, the state's governing body for its public schools. It was upheld by New York's state courts.

The parents who appealed said the prayer is a form of coercion on their children. Some of the parents are members of the Jewish faith, or the Unitarian Church and/or the Society for Ethical Culture. One parent is a non-believer.

New York's highest tribunal, the Court of Appeals, said there is no coercion because there is adequate protection in that "no pupil need take part or be present during the act of reverence."

To hold that saying the prayer is unconstitutional, the court said, "would be in defiance of all American history, and such a holding would destroy a part of the essential founding of the American governmental structure." It added:

"Belief in a Supreme Being is as essential and permanent a feature of the American governmental system as is freedom of worship, equality under the law and due process of law."

Text of Prayer Read in Schools

WASHINGTON (AP).

The prayer, read in New Hyde Park, L. I., schools, a practice that became the subject of an action yesterday before the Supreme Court, is as follows:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessing upon us, our parents, our teachers and our country."

U.S. COURT TO RULE ON SCHOOL PRAYER

High Tribunal Will Weigh Legality of State Practice

By ANTHONY LEWIS
Special to The New York Times.

WASHINGTON, Dec. 4—The Supreme Court agreed today to decide whether it is constitutional to say a daily prayer in New York public schools.

The prayer was recommended in 1951 by the New York Board of Regents for all public schools in the state. It reads as follows:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessing upon ut, our parents, our teachers and our Country."

Challenging the use of the prayer are five families with a total of ten children in school in New Hyde Park, Nassau County, L. I. Two of the families were described as Jewish, one as Unitarian, one as members of the Ethical Culture Society and one as non-believers in any religion.

Coercion Charged

They said the practice was to say the prayer in each class right after pledging allegiance to the flag. The teacher or one of the class leads the rest of the students.

The complaining parents said the effect of this procedure was to coerce all children to join in the prayer, although they are not formally compelled to. Its language, they added, is contrary to their own views of religion or, in the one case, non-belief in religion.

Their legal conclusion was that the prayer amounted to state encouragement of religion. They said it violated the clause of the Consitution forbidding a governmental "establishment of religion."

These arguments were rejected in the New York courts. The state's highest tribunal, the Court of Appeals, divided 5 to 2 in upholding the constitutionality of the prayer.

William J. Butler and Stanley J. Geller of New York filed a petition for the parents seeking a review in the Supreme Court. The ruling today means that there will be oral argument later thsi term, with a decision to follow.

Regents Explain Motive

The Board of Regents, entering the case as a friend of the court, had filed a stron brief opposing any Supreme Court review. The brief was signed by the board's counsel, Charles A. Brind.

Mr. Brind said the board had recommended the prayer because it was "aware of the dire need, in these days of concentrated attacks by an atheistic way of life upon our world . . . of finding ways to pass on America's Moral and Spiritual Heritage to our youth through the public school system."

The brief added that the Supreme Court justices themselves heard a reference to God every day, when the court crier said: "God save the United States and this honorable court."

Another brief was filed on behalf of the New Hyde Park School Board and a group of parents who support the prayer. It was signed by Bertram B. Daiker of Port Washington, L. I., and Thomas J. Ford of Brooklyn.